



**THE UNIVERSITY OF TEXAS SYSTEM**  
**OFFICE OF GENERAL COUNSEL**  
**OFFICE OF GOVERNMENTAL RELATIONS**

**Summaries of Legislation Impacting Higher Education**  
**84<sup>th</sup> Legislature, Regular Session**

**August 2015**

## FOREWORD

This publication, prepared by The University of Texas System Office of General Counsel (OGC) and Office of Governmental Relations (OGR), summarizes actions of the Regular Session of the 84<sup>th</sup> Legislature affecting higher education and is offered for officers and employees of institutions and of System administration who need to implement or otherwise be aware of those legislative actions. This publication includes summaries of individual bills prepared by OGC attorneys in cooperation with OGR as well as a summary of the appropriations bill prepared by OGR.

The summaries of individual bills are arranged by subject matter under broad categories, such as academic issues and health issues. Note that some of the bills under “Academic Issues” apply to health institutions as well as academic institutions, and vice versa. Within each subject, bills are listed in numerical order, not in order of significance. Some individual bills appear under more than one subject heading. For each bill, the summary describes the main points of the bill that affect higher education and provides a general assessment of the impact of the bill. The summaries offer brief guidance about implementation and directions or suggestions as to which officers or employees should be aware of the bill. The summary includes the name of the OGC attorney who prepared the analysis and who may be contacted for further information.

Each summary is merely that—a summary. It is intended to direct the reader’s attention to a bill and to provide enough information for the reader to determine whether detailed analysis and possible development of an implementation plan is necessary. **The summary is not a substitute for a holistic analysis of a bill in light of the particular circumstances of an office or institution.**

The full text of each bill is available through a hyperlink in the electronic version of this document. The text, as well as the legislative history and a wealth of other information for each bill, is also available free online at [www.capitol.state.tx.us](http://www.capitol.state.tx.us). That website is maintained by the Texas Legislative Council, a state agency serving both houses of the Texas Legislature, and contains many other resources regarding legislation.

This project was under the direction of Jason King, Assistant General Counsel and Ethics Advisor. We welcome your suggestions on ways to improve this publication in the future so that we may continue to serve you in the process of implementing legislation that affects your mission.

Dan Sharphorn, Vice Chancellor and General Counsel  
Barry McBee, Vice Chancellor and Chief Governmental Relations Officer

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## **HBs 1 & 2: APPROPRIATIONS**

*This section summarizes higher education appropriations for the next biennium as included in the general and supplemental appropriations bills.*

### **In General**

The General Appropriations Act (GAA), House Bill 1 (HB 1) by Otto and Nelson, authorizes \$209.4 billion in all funds state government spending for the fiscal biennium that begins September 1, 2015 (fiscal years 2016 and 2017). The total is \$7.3 billion more than the budget for FY 14-15, a 3.6 percent increase overall. 51 percent of the budget – \$106.6 billion – is general revenue (GR).

Additionally, a Supplemental Appropriations bill from the regular session, House Bill 2 (HB 2) by Otto and Nelson, , appropriates \$300.0 million in General Revenue, including \$12.7 million in special item funding for UT System institutions and \$42.5 million for the Texas Department of Criminal Justice for Correctional Managed Health Care benefiting UTMB Galveston.

The budget also includes funding to cover \$3.8 billion in property tax relief and franchise tax cuts for Texas businesses. The budget leaves an estimated \$6.4 billion unspent and is \$2.9 billion under the state's constitutional spending cap. Additionally, no appropriations from the Economic Stabilization Fund, commonly referred to the "rainy day fund," are included in the 2016-17 biennium. The balance of the fund is estimated to be \$11.1 billion at the end of fiscal year 2017. Higher Education and the UT System

The 84th Legislature appropriated \$14.7 billion in General Revenue (GR) to support all of higher education, including amounts estimated for employee benefits, for 2016-17. This represents an increase of \$1.4 billion in General Revenue or 10.6 percent above 2014-15 expenditures.

For the University of Texas General Academic Institutions (GAIs), Health-related Institutions (HRIs), and System Administration, the appropriations bills include \$3.6 billion in General Revenue appropriations for 2016-17, an increase of \$262.2 million or 7.8 percent compared to 2014-15. General Revenue appropriations total \$1.7 billion for the eight UT GAIs; \$1.9 billion for the six UT HRIs; and \$18.1 million for UT System Administration. An additional \$459.5 million is appropriated for the cost of employee group health insurance for the System and all institutions, and \$57.7 million is appropriated to UT System emerging research institutions for the Texas Research Incentive Program (TRIP), a gift-matching program that encourages philanthropy. The operating funds (exclusive of Tuition Revenue Bond debt service appropriations) increase of \$262.1 million includes GAI increases totaling \$152.8 million, or 10.9 percent, HRI increases totaling \$112.0 million, or 6.75 percent. UT System Administration appropriations decreased by \$6.9 million, as a result of the reduction of \$2.7 million of General Revenue for System Operations, the transfer of the \$9.2 million Alzheimer Consortium trustee funds from UT System Administration to UT Austin, and the transfer of the \$5.0 million Texas Heart Institute funding from UT Health Science Center Houston to UT System Administration.

## Formula Funding

Higher Education formulas are supported by \$7.2 billion in General Revenue Funds (GR) and \$1.3 billion in General Revenue Dedicated funds (GRD). Included in this amount is an increase of \$391.5 million in GR and \$68.2 million in statutory tuition in GRD. The increase in formula appropriations reflects both the funding of enrollment growth, as well as increasing rates in all of the formulas except the HRIs two mission-specific formulas and the success point components of the Public Community and Junior College formulas.

### *General Academic Institutions – Formula Funding*

Appropriations for the General Academic Institutions provide \$3.4 billion in GR funds for the Instruction and Operations and the Infrastructure Support formulas, an increase of \$281.9 million from the 2014-15 biennium. Formula amounts for 2016-17 increase the Instruction and Operations formula rate from \$54.86 per weighted semester credit hour in 2014-15 to \$55.39 in 2016-17. Formula amounts for the Infrastructure Formula increase the 2014-15 rate of \$5.56 per predicted square foot to \$5.62 per predicted square foot.

### *Health Related Institutions – Formula Funding*

Appropriations for the Health Related Institutions (HRIs) provide \$1.9 billion in GR funds in formula funding, representing an increase of \$134.0 million in GR funds, or 7.6 percent, as compared to the 2014-15 funding levels.

Appropriations provide \$1.1 billion in General Revenue funds for the Instruction and Operations (I&O) support formula, an increase of \$71.7 million from the 2014-15 biennium. The 2016-17 formula amounts increase the I&O rate from \$9,527 to \$9,829 per FTSE. The I&O formula includes funding of \$40.0 million in GR for a small class supplement. The supplement provides additional funding for instructional programs with enrollments of fewer than 200 students at remote locations and for instructional programs at The University of Texas Health Science Center at Tyler's main campus. Prior to the 2016-17 biennium, the small class supplement was provided for eligible programs at both remote locations and in the same city as the institution's main campus.

Appropriations provide \$246.8 million in GR for the Infrastructure formula, an increase of \$10.9 million from the 2014-15 biennium. The 2016-17 formula amounts increase the Infrastructure rate to \$6.65 for all health-related institutions except The University of Texas MD Anderson and The University of Texas Health Science Center at Tyler, and \$6.26 for those two institutions. This is an increase from the 2014-15 rates of \$6.63 and \$6.09 respectively. The Infrastructure formula GR rate for UT MD Anderson and UTHSC Tyler is aligned with the average GR rate of the other health related institutions.

Appropriations provide \$78.6 million in GR funds for the Research Enhancement formula, an increase of \$5.9 million from the 2014-15 biennium. The 2016-17 formula amounts increase the Research Enhancement rate to 1.23 percent plus the base rate of \$1.4 million, an increase from the 2014-15 rate of 1.22 percent plus the base rate of \$1.4 million.

Data elements in the Infrastructure support formula (predicted square feet) and Research Enhancement formula (research expenditures) include research conducted by faculty at a clinical partner for all institutions for the 2016-17 formula allocation. Prior to the 2016-17 biennium, predicted square feet and research expenditures only included research conducted by faculty at a clinical partner for Texas A&M University Health Science Center.

Appropriations provide \$85.9 million in General Revenue funds appropriated to health related institutions and Baylor College of Medicine for the GME formula, an increase of \$20.2 million from the 2014-15 biennium. The 2016-17 formula amounts increase the GME rate from \$5,122 per medical resident to \$6,266 as compared to the 2014-15 biennium.

Finally, formula amounts for the two mission-specific formulas increase the Cancer Center Operations formula and the Chest Disease Center Operations formula by 7.0 percent from the 2014-15 funding levels. Appropriations provide \$264.8 million for the Cancer Center Operations formula for UT MD Anderson, which represents an increase of \$17.3 million; and provide \$58.4 million for the Chest Disease Center Operations formula, which represent an increase of \$3.8 million.

#### Tuition Revenue Bonds

HB 100 authorizes capital construction at 64 public higher education campuses in Texas at a cost of \$3.1 billion. HB 100 funds \$922.6 million of capital construction projects at UT System institutions. Appropriations for debt service for existing authorizations are at institution-requested levels. The Legislature appropriated \$240 million to the coordinating board in fiscal year 2017 for distribution to the institutions of higher education for debt service on the authorized tuition revenue bonds. The coordinating board shall present a plan for allocations of the appropriations to the Legislative Budget Board by January 1, 2016.

#### Student Financial Aid

HB 1 appropriates \$62.7 million more in General Revenue for the Texas Grants at the Texas Higher Education Coordinating Board (THECB), for a total appropriation of \$715.0 million for the biennium. Appropriations provide \$94.0 million in General Revenue funds for the Texas Educational Opportunity Grant (TEOG) program, an increase of \$28.9 million from the 2014-15 funding levels. Appropriations provide \$63.4 million in General Revenue Dedicated B-On Time Account 5103 for the B-On-Time program for public institutions of higher education, a decrease of \$17.4 million from 2014-15 levels. The program is repealed by HB 700 and no new awards will be made, but appropriations are necessary to support renewal awards in the program during the 2016-17 biennium. Not included in these amounts is an additional \$65.3 million in GRD B-On-Time unexpended balances appropriated in Article IX to public institutions of higher education, which was took effect with HB 700 becoming law.

#### Research and National Research Universities

HB 1000 reorganizes university research funds into three distinct funds: the Texas Research University Fund, which supports research at Texas top tier research universities, UT Austin and

Texas A&M University; the Core Research Support Fund, supporting research at Texas' emerging research institutions, including four in the UT System; and the Comprehensive Research Fund, to increase research capacity for all other general academic institutions. The Texas Legislature appropriated \$147.1 million to support the Texas Research University Fund (TRUF), \$117.1 million for the Core Research Support Fund, and \$14.3 million for the Comprehensive Research Fund. This represents an increase of \$35 million in the Texas Research University Fund and \$10 million for the Core Research Support as compared to the amounts appropriated for the same purposes in the 2014-15 biennium.

In another significant investment in research, the Legislature appropriated \$138.1 million for the Texas Research Incentive Program (TRIP), which incentivizes matching private gifts supporting research at emerging research institutions, which include UT Arlington, UT Dallas, UT El Paso and UT San Antonio. This represents an increase of \$102.5 million as compared to the 2014-15 biennium.

The Governor's University Research Initiative was created with a mission to attract world class researchers, including Nobel laureates and national academy members, to Texas public universities. The legislature appropriated \$40 million in funding for this initiative from balances of the Texas Emerging Technology Fund.

The Cancer Prevention and Research Institute of Texas is appropriated \$600 million in General Obligation bond proceeds for the biennium, for the purpose of awarding cancer prevention and research grants.

Appropriations from the National Research University Fund, which benefits emerging research institutions, are an estimated \$61.1 million to be distributed to eligible institutions.

#### Medical Education

Appropriations provide \$53.0 million in General Revenue funds for the Graduate Medical Education Expansion Program. This funding is to be allocated as follows: \$3.50 million to award one-time graduate medical education planning and partnership grants; \$32.55 million to enable new or existing GME programs to increase the numbers of first year residency positions; \$9.75 million to enable programs to fill first year residency positions and \$7.2 million to programs that received a grant award for the new and expanded GME program.

Additionally, appropriations provide \$16.8 million, including \$12.8 million in GRD Trauma and EMS account 5111 program and \$4.0 million in GR for the Family Practice Residency Program.

SB 18 amends the Education Code to establish the permanent fund supporting graduate medical education to fund certain programs supporting graduate medical education or as otherwise directed by the legislature. Funding for this \$300 million endowment will come through the dissolution of the Texas Medical Liability Joint Underwriting Association, and is expected to generate about \$15 million per year for the next legislative session.

The THECB also received \$33.8 million for the THECB Physician Education Loan Repayment Program and \$10.2 million for the Joint Admission Medical Program (JAMP), a program



providing mentoring and scholarships to assist highly qualified, economically disadvantaged students in pursuing medical degrees.

#### Nursing

The THECB maintains the same level of funding for the Professional Nursing Shortage Reduction Program at \$33.8 million for the biennium.

#### Correctional Managed Health Care

HB 1 appropriates \$988.8 million to the Texas Department of Criminal Justice (TDCJ) for health care services to state prison inmates provided through UTMB and Texas Tech University Health Science Center, which represents an increase from 2014-15 appropriations.

#### Special Item Funding

The Legislature appropriated \$193.5 million in special item funding to higher education institutions, of which \$104.4 million, or 54 percent, was appropriated to UT System institutions. This amount includes the \$30 million increase in special item funding in support of The University of Texas Rio Grande Valley School of Medicine.

#### Hazlewood

The Legislature appropriated \$30 million for the 2016-17 biennium at the Veteran's Commission to fund the proportionate share of the total cost to each institution for this tuition exemption for certain veterans and dependents. . In addition, a permanent fund supporting military and veterans exemptions provides an additional \$23.5 million for the 2016-17 biennium. It is widely accepted that the current model is not financially sustainable for the State of Texas, but the legislature failed to revise or fully fund the program. For UT institutions alone, the lost revenue from tuition forgone for this benefit was \$42.1 million in FY 2014, a figure the LBB estimates will increase to \$94.3 million in five years and a cost of \$379 million for all of higher education by 2019. The dramatic increase in the cost of the benefit is largely the result of what is known as the "legacy" benefit, in which an eligible veteran may allow the veteran's spouse or dependent to use the benefit eligibility that the veteran does not use.

#### Other

The annual constitutional appropriation to certain state agencies and institutions of higher education, known as the Higher Education Fund or Higher Education Assistance Fund, increased by \$131.25 million for FY2017, pursuant to SB 1191. The total annual appropriation beginning FY 2017 will be \$393.75 million, allocated by formula to universities that do not benefit from the Permanent University Fund. With the creation of The University of Texas Rio Grande Valley (UTRGV) and the abolition of The University of Texas at Brownsville (UTB) and The University of Texas-Pan American (UTPA), no universities of the U.T. System participate in this funding.

In support of the establishment of UTRGV, the legislature established one bill pattern for the university. It consolidated existing The University of Texas at Brownsville (UTB) and The

University of Texas-Pan American (UTPA) funding to UTRGV and transferred existing Regional Academic Health Center (RAHC) funding from The University of Texas Health Science Center at San Antonio (UTHSC SA) to UTRGV. In addition to the \$30 million in special item funding for the School of Medicine, the legislature appropriated for UTRGV \$1 million in special item funding for the Math & Science Academy and \$2.5 million in funding from the permanent health funds.

## Veto

The governor purported to veto a few items of appropriation to institutions of higher education, including \$5 million for the biennium to UT Austin for the Center for Identity, as well as items for Texas A&M, Tarleton State, and Stephen F. Austin. In addition, the governor purported to veto a rider directing the Texas Education Agency (TEA) to allocate funds for membership in the Southern Regional Education Board (SREB), a veto that may affect the ability of UT System to participate in the State Authorization Reciprocity Agreement (SARA).

The efficacy of these vetoes is questionable because the constitution permits the governor to veto only an “item of appropriation.” An item of appropriation is authority to spend money in the treasury and must be specific as to amount, purpose, and period. Appropriations to state agencies generally follow a pattern that facilitates gubernatorial veto—separate programs are funded by a “line item” that is specific to that program (i.e., purpose) in a specific amount for a specific period. In contrast, higher education appropriations are in a single lump sum for all purposes of the institution, and the separate listing of programs is identified in the bill as an “informational listing” only. The Office of General Counsel believes that the informational listings are not items of appropriation subject to veto.

Similarly, because the SREB rider is a detail, restriction, or limitation on the use of funds appropriated elsewhere to the TEA, rather than the appropriation of those funds, the Officer of General Counsel believes that the governor may not veto the rider.

It may take several months before the efficacy of the purported vetoes is formally determined.

Tomas Guajardo  
Office of Governmental Relations  
Office of the Controller

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## Admissions and Advising

### [HB 2472](#) by Zerwas and Watson

Relating to the automatic admission of undergraduate students to The University of Texas at Austin.

Current law authorizes The University of Texas at Austin (UT Austin) to limit automatic admissions to the university under the top 10 percent rule if automatic admission enrollment exceeds 75 percent of the university's enrollment capacity. House Bill 2472 repeals the Education Code provision prohibiting the university from limiting such admissions after the 2017-2018 academic year.

**Impact:** UT Austin's ability to limit automatic admissions under the top 10 percent rule if automatic admission enrollment exceeds 75 percent of the university's enrollment capacity no longer expires after the 2017-2018 academic year.

**Implementation:** Notify UT Austin admission officials.

**Effective:** June 17, 2015

Priscilla A. Lozano

### [SB 1543](#) by Perry, et al. and Frank

Relating to the admission of undergraduate students with nontraditional secondary education to public institutions of higher education.

This bill amends Section 51.9241 of the Education Code regarding the admission of students with nontraditional secondary education (which is defined as nonaccredited private school setting, including a home school). Generally, Subsection (b) requires that institutions of higher education treat an applicant for admission as an undergraduate student who presents evidence that he or she has successfully completed a nontraditional secondary education according to the same general standards as other applications who graduated from a public high school. Subsection (b) is amended to require that those same general standards include "specific standardized testing score requirements."

Section 51.9241 is also amended by adding Subsection (d). This new subsection provides that if an institution of higher education in its undergraduate admission review process sorts applicants by high school graduating class rank, the institution shall place any applicant who presents evidence that the applicant has successfully completed a nontraditional secondary education that does not include a high school graduating class ranking at the average high school graduating class rank of undergraduate applicants to the institution who have equivalent standardized testing scores as the applicant.

The changes in law made by this Act apply beginning with admissions to a public institution of higher education for the 2016 fall semester. Admissions to a public institution of higher education for a term or semester before the 2016 fall semester are governed by

the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

**Impact:** UT System academic institutions should be made aware of this admission requirements related to applicants with nontraditional secondary education.

**Implementation:** Each institution may need to amend various websites or other admission resources for prospective students

**Effective:** September 1, 2015

Melissa V. Garcia

**SB 2031** by Watson, et al. and Howard

Relating to the date for publication of the factors considered for admission to a new graduate and professional program.

SB 2031 authorizes a general academic teaching institution or medical or dental unit to delay publication of the factors that it will consider in its graduate and professional program admissions decisions if compliance with accreditation agency requirements prevents a timely publication.

Impact: SB 2031 impacts UTRGV and UT Austin medical schools to the extent that they may not be able to timely publish admission criteria because of accreditation agency requirements. They are required by SB 2031 to publish as soon as practicable.

Implementation: Regents' Rules and Regulations, Rule 40303 should be reviewed for amendment. Institution Handbook of Operating Procedures regarding admission and catalog information regarding admission should be reviewed for possible amendment.

Effective: May 23, 2015

Priscilla A. Lozano

### **Tuition and Fees**

**HB 2396** by Howard, et al. and Seliger

Relating to eliminating requirements that certain public institutions of higher education set aside portions of tuition for student loan repayment programs for certain physicians and state attorneys.

This bill repeals Section 61.539 and Section 61.9731 of the Texas Education Code. Therefore:

- Section 61.539 is eliminated: The governing boards of each medical unit of an institution of higher education will no longer have to set aside two percent of tuition charges for each student registered in a medical branch, school, or college; and



- Section 61.9731 is eliminated: The governing board of each public school of law is no longer required to set aside one percent of tuition charges for resident students enrolled in the school of law.

This bill also amends Section 61.5391(a) of the Texas Education Code, which relates to the funding of the physician education loan repayment program account. Specifically, this provision is amended to exclude the tuition set-aside from Section 61.539(b) from being included in the physician education loan repayment program account.

This bill further amends Sections 61.9730 and 61.9732 of the Texas Education Code which relates to the loan repayment program for attorneys at the Office of the Texas Attorney General. Specifically, the loan repayment program no longer includes funding through tuition set-aside, but rather is only limited to funding through (1) gifts, grants, and donations accepted by the board; (2) legislative appropriations for the program; and (3) money budgeted for the program by the Office of the Attorney General from appropriations made to that Office.

The change to this law applies beginning with tuition charged for the 2015 fall semester. Tuition charged for any semester or other academic term before the 2015 fall semester is covered by the applicable law as it existed before the effective date of this Act, and the former law is continued in effect for that purpose.

**Impact:** UT System academic and health institutions are impacted by the bill and should be aware of the elimination of the required tuition set-aside provisions for each student registered in a medical branch, school, or college; and the elimination of tuition set aside for the loan repayment program for law students.

**Implementation:** Tuition set-asides under Section 61.539 and Section 61.9731 of the Texas Education Code must cease beginning with the 2015 fall semester. Also, UT System academic and health institutions will need to make modifications to catalogs, publications, and websites as necessary regarding the elimination of the respective tuition set-asides.

**Effective:** June 20, 2015

Melissa V. Garcia

### **Financial Aid and Savings Programs**

**HB 700** by Patrick and Zaffirini

Relating to the repeal of the Texas B-On-Time student loan program.

Since the bill abolishes the B-On-Time loan program, the bill amends the heading to Section 52.91 to reflect the program's status as a "former" program.

The bill also amends Section 54.0065(a) to state that a qualified student is eligible for a rebate of a portion of the undergraduate tuition the student has paid if the student is awarded a baccalaureate degree from a general academic teaching institution within four years and meets the other criteria outlined by the bill.

The bill states that the B-On-Time loan program remains in effect for certain academic years only. Specifically, the bill states that beginning with the fall 2015 semester, the board may not award an initial B-On-Time loan. The board may award, for a semester occurring before the fall 2020 semester, a subsequent B-On-Time loan to a student who received an initial B-On-Time loan prior to the 2015-2016 academic year.

Finally, the bill states that on September 1, 2020, the B-On-Time student loan account is abolished, and any remaining money may be appropriated to eligible institutions in a manner outlined in Subsection (e) of the bill.

**Impact:** UT System institutions are impacted by the bill because it will decrease the amount of financial aid available to students.

**Implementation:** To the extent necessary, the institutions will need to work with students to explore financial aid alternatives.

**Effective:** September 1, 2015

Ashley A. Palermo

[HB 2396](#) by Howard, et al. and Seliger

Relating to eliminating requirements that certain public institutions of higher education set aside portions of tuition for student loan repayment programs for certain physicians and state attorneys.

This bill repeals Section 61.539 and Section 61.9731 of the Texas Education Code. Therefore:

- Section 61.539 is eliminated: The governing boards of each medical unit of an institution of higher education will no longer have to set aside two percent of tuition charges for each student registered in a medical branch, school, or college; and
- Section 61.9731 is eliminated: The governing board of each public school of law is no longer required to set aside one percent of tuition charges for resident students enrolled in the school of law.

This bill also amends Section 61.5391(a) of the Texas Education Code, which relates to the funding of the physician education loan repayment program account. Specifically, this provision is amended to exclude the tuition set-aside from Section 61.539(b) from being included in the physician education loan repayment program account.

This bill further amends Sections 61.9730 and 61.9732 of the Texas Education Code which relates to the loan repayment program for attorneys at the Office of the Texas Attorney

General. Specifically, the loan repayment program no longer includes funding through tuition set-aside, but rather is only limited to funding through (1) gifts, grants, and donations accepted by the board; (2) legislative appropriations for the program; and (3) money budgeted for the program by the Office of the Attorney General from appropriations made to that Office.

The change to this law applies beginning with tuition charged for the 2015 fall semester. Tuition charged for any semester or other academic term before the 2015 fall semester is covered by the applicable law as it existed before the effective date of this Act, and the former law is continued in effect for that purpose.

**Impact:** UT System academic and health institutions are impacted by the bill and should be aware of the elimination of the required tuition set-aside provisions for each student registered in a medical branch, school, or college; and the elimination of tuition set aside for the loan repayment program for law students.

**Implementation:** Tuition set-asides under Section 61.539 and Section 61.9731 of the Texas Education Code must cease beginning with the 2015 fall semester. Also, UT System academic and health institutions will need to make modifications to catalogs, publications, and websites as necessary regarding the elimination of the respective tuition set-asides.

**Effective:** June 20, 2015

Melissa V. Garcia

[SB 686](#) by Seliger, et al. and Clardy

Relating to the Math and Science Scholars Loan Repayment Program

This bill repeals Section 61.9837(f) of the Education Code (which states that the legislature may not appropriate general revenue to the fund).

Sections 61.9832(a)(5) of the Education Code is amended stating that, in addition to the other requirements of 61.9832(a), to be eligible to receive loan repayment assistance a person must be: (A) certified under Subchapter B, Chapter 21, to teach mathematics or science in a public school in this state; or (B) teaching under a probationary teaching certificate.

Section 61.9839(a) of the Education Code is amended stating that an eligible person may continue to receive loan repayment assistance if the person continues to teach in a public school that receives funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.), after the first four years of teaching service required under Section 61.9832(c)(2).

**Impact:** UT System academic institutions' financial aid offices should be aware of this change to the extent that the funds available for the Math and Science Scholars Loan Repayment Program may result in an increase. Also, these offices should be aware of the changes to eligibility requirements for loan repayment assistance under the program.

**Implementation:** Financial aid offices may need to make changes to policies, catalogs or websites.

**Effective:** September 1, 2015

Melissa V. Garcia

[\*\*SB 1066\*\*](#) by Zaffirini, et al. and Clardy

Relating to continuing eligibility requirements for institutions of higher education to participate in the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship Program.

This bill amends Section 61.9794(b) of the Education Code and changes the requirements for institutions to maintain their eligibility in the T-STEM Challenge Scholarship Program.

Specifically, the bill requires that to maintain their eligibility in the program, institutions must demonstrate each year, beginning with the third year following implementation of such a scholarship program, that at least 70% of the institution's T-STEM Challenge Scholarship recipients, within twelve months of receipt of a scholarship are either (1) employed; or (2) enrolled in courses leading to a certificate, associate, or baccalaureate degree in a STEM field. **Impact:** The changes to this Section actually make it easier for institutions to maintain their STEM Challenge Scholarship funding. The previous requirements of the Section required that recipients of the Scholarship either be employed by a STEM-related business or be enrolled in upper-level STEM courses..

**Effective:** September 1, 2015

Ashley A. Palermo

### **Programs, Courses, and Credits**

[\*\*HB 218\*\*](#) by Márquez, et al. and Rodríguez

Relating to certification requirements for teachers in bilingual education.

HB 218 amends the certification requirements of teachers in bilingual education.

**Impact:** HB 218 impacts UT System institution charter schools that are required to have bilingual education classes. It increases the flexibility of the schools using a dual language immersion one-way or two-way program model in staffing the English component of the program. .

**Implementation:** UT System institution charter schools should be notified so that they can review staffing needs for their bilingual education programs.

**Effective:** June 15, 2015

Priscilla A. Lozano

[\*\*HB 495\*\*](#) by Howard and Hinojosa

Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.

Sections 63.202(f) and (g) of the Education Code are amended by extending the award period from the state fiscal biennium on August 31, 2017 and the fiscal biennium ending on August 31, 2019.

This bill also provides that Subsections (f) and (g) do not expire until September 1, 2019.

**Impact:** This bill impacts UT System's institutions that receive funding from the permanent health fund for the nursing, allied health, and other health-related programs and should be aware of the extension periods.

**Implementation:** U.T. institutions should be aware of these changes due to the potential fiscal impact.

**Effective:** May 29, 2015

Melissa V. Garcia

[\*\*HB 505\*\*](#) by Rodriguez, et al., and Estes, et al.

Relating to a prohibition of limitations on the number of dual credit courses or hours in which a public high school student may enroll.

House Bill 505 repeals an Education Code provision prohibiting a high school student from enrolling in more than three dual credit courses at a junior college if the junior college does not have a service area that includes the student's high school. The bill also amends the Education Code to prohibit certain limitations on the number of dual credit courses or hours in which a high school student may enroll as part of a college credit program.

**Impact:** The bill impacts UT System institution charter schools with high school students since the school will not be able to limit the number of dual credit courses in which the high school student enrolls. The bill also impacts UT System institutions who participate in offering dual credit classes since students may wish to enroll in more college courses to earn college credit simultaneously with high school credit.

**Implementation:** UT System institution charter school administrators should be notified. UT System academic, health and dental institutions may wish to review dual credit agreements with high schools in light of HB 505 to determine whether there are additional opportunities for agreements with high schools.

**Effective:** May 23, 2015

Priscilla A. Lozano

[HB 1054](#) by Clardy and Zaffarini

Relating to developmental education programs under the Texas Success Initiative for public institutions of higher education.

This bill amends Section 51.3062 of the Texas Education Code—which relates to the developmental education and the assessment of student readiness under the Texas Success Initiative.

HB 1054 amends the law by adding the definition of “basic academic skills education” which means “non-course competency-based developmental education programs and interventions designed for students whose performance falls significantly below college readiness standards.”

This bill mandates that the Texas Higher Education Coordinating Board (Coordinating Board) prescribe a score below which a student is eligible for “basic academic skills education.”

HB 1054 further provides that an institution that requires a student to enroll in developmental coursework must also offer developmental coursework in the “basic academic skills education” in order to efficiently address the particular developmental needs of that student whose performance falls significantly below college readiness standards.

The Coordinating Board is also required, in consultation with institutions, to develop and provide professional development programs to faculty and staff who provide developmental coursework to students, including “basic academic skills education.”

HB 1054 also mandates that the legislature appropriate money for approved non-degree-credit developmental courses, including “basic academic skills education” (within the confines of the existing exceptions).

- This bill is further amended to include “basic academic skills education” as a type of developmental coursework to be offered by the institutions to the applicable student

**Impact:** Beginning with the 2016-2017 academic year, UT System academic institutions will be required to offer another type of developmental coursework—basic academic skills education—for those applicable students whose performance falls significantly below college readiness standards (as determined by the Coordinating Board). Additionally, faculty and staff who provide developmental coursework to students may be required to attend professional development programs developed by the Coordinating Board to address the basic academic skills education

**Implementation:** UT System academic institutions should monitor the Coordinating Board’s adoption of rules, standards, and programs under HB 1054, should provide student assessments as required by HB 1054 and Coordinating Board rules, and should develop and offer developmental coursework as required by HB 1054.

**Effective:** June 16, 2015

Melissa V. Garcia

[HB 1924](#) by Coleman, et al. and Eltife

Relating to the authority of a psychologist to delegate certain care to an intern.

This bill amends section 501.351(a) of the Occupations code, regarding psychologists. Previously, a licensed psychologist could delegate certain psychological tests and services to:

- provisionally licensed psychologists,
- newly licensed psychologist, or
- a person who holds a temporary license.

This bill expands the list of individuals to whom a psychologist could delegate duties by one. A psychologist may now delegate psychologist duties to a person enrolled in a formal internship as provided by board rules.

The Board of Examiners of Psychologists will be responsible for creating rules which govern these formal internships. Because the bill does not specify any detail regarding the internships, the scope of the internships will be decided entirely by the Board.

**Impact:** Depending on the rules adopted by the Board, this change could allow our academic faculty who are psychologists to delegate additional duties to students if they are part of a formal internship. This provision may also assist our health institutions by allowing psychologists to delegate additional duties to formal interns.

**Implementation:** Component institutions that are interested in psychologist delegation to formal interns should work with System and Institution Offices of Governmental Relations to work with the Board of Examiners of Psychologists regarding the upcoming rulemaking.

**Effective:** September 1, 2015

Jason King

[HB 1992](#) by Zerwas, et al. and Bettancourt, et al.

Relating to the granting of undergraduate course credit by advanced placement examination at public institutions of higher education.

This bill amends Section 51.968 of the Education Code by adding Subsection (c-1). This bill states that in establishing the minimum required score on an Advanced Placement examination for granting course credit under Subsection (c), an institution of higher

education may not require a score of more than three unless the institution's chief academic officer determines, based on evidence, that a higher score on the examination is necessary to indicate a student is sufficiently prepared to be successful in a related, more advanced course for which the lower-division course is a prerequisite.

This bill also amends Subchapter C, Chapter 61 of the Education Code by adding Section 61.0518 entitled “Study on Undergraduate Course Credit for Advanced Placement Examinations” (which will expire September 1, 2019). This newly added provision requires the Texas Higher Education Coordinating Board (Coordinating Board), in consultation with institutions of higher education, the board's Undergraduate Education Advisory Committee, and other interested parties, to conduct a study on the performance of undergraduate students at institutions of higher education who receive undergraduate course credit for achieving required scores on one or more Advanced Placement examinations.

More specifically, the study must compare the academic performance, retention rates, and graduation rates at institutions of higher education of students who complete a lower-division course at an institution, and students who receive credit for that course for a score of three or more on an Advanced Placement examination, disaggregated by score. This bill also requires that each institution of higher education submit to the Coordinating Board any data requested by the Coordinating Board as necessary for it to carry out the duties related to this study.

Not later than January 1, 2017, the Coordinating Board must submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over higher education a progress report that examines the academic performance at institutions of higher education of students who received undergraduate course credit for a score of three on one or more Advanced Placement examinations, and any recommendations for legislative or administrative action.

Not later than January 1, 2019, the Coordinating Board must submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over higher education a report regarding the results of the study conducted under this section and any recommendations for legislative or administrative action.

The Coordinating Board must adopt rules as necessary to implement this study in a manner that ensures compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

**Impact:** Admission offices at UT System academic institutions should be aware of these changes relating to minimum required score on an Advanced Placement examination for granting course credit and would need to make modifications to catalogs, publications, and websites as necessary. Further, to the extent any UT System academic institution is asked by Coordinating Board to provide data needed for the Study on Undergraduate



Course Credit for Advanced Placement Examinations, each institution must be prepared to provide such data and information accordingly.

**Effective:** June 3, 2015

Melissa V. Garcia

**HB 3078** by Darby and Seliger

Relating to the creation of an advisory committee to recommend a uniform pre-nursing curriculum for undergraduate professional nursing programs offered by public institutions of higher education.

HB 3078 establishes the Uniform Pre-Nursing Curriculum Advisory Committee to make recommendations regarding the prerequisite courses required for an undergraduate professional nursing program and the content of those courses. The committee has statutorily prescribed membership that includes at least 12 institutions with professional nursing programs, with at least three representatives each from junior colleges, general academic teaching institutions, and health science centers. Those appointments are made by the Texas Higher Education Coordinating Board. The advisory committee is to report its recommendations to the legislatures not later than December 1, 2016.

**Impact:** The recommendations of the advisory committee may lead to a statutory pre-nursing curriculum for professional nursing programs, eliminating the traditional practice in which the academic curriculum for such a program is established by the faculty of the respective institutions.

**Implementation:** No direct implementation responsibility on the part of UT System institutions. However, an institution with a nursing program may choose to proactively pursue appointment to the advisory committee to ensure representation of the institution's interests.

**Effective:** June 18, 2015

Steve Collins

**SB 453** by Seliger and Clardy

Relating to minimum scores required for public school students to receive credit by an examination administered through the College-Level Examination Program (CLEP). This bill amends Section 28.023 (c-1) of the Texas Education Code. Specifically, subsection (2) is amended to allow for a scaled score of 50 (previously 60) or higher on an exam administered through CLEP.

The changes in law made by this Act apply to an exemption from tuition and fees beginning with the 2015-2016 school year.

**Impact:** UT System academic institutions' admissions and registrar offices should be made aware of the revised scoring system on CLEP examinations that impact course credit for public secondary education students.

**Implementation:** To the extent necessary, UT System academic institutions may would need to make modifications to catalogs, publications, and websites.

**Effective:** June 19, 2015

Melissa V. Garcia

[\*\*SB 674\*\*](#) by Campbell and Coleman

Relating to instruction regarding mental health, substance abuse, and youth suicide in educator training programs.

This bill amends Section 21.044 (c-1) of the Education Code (relating to educator preparation for educators and school district employees in the public school system). Subsection (c-1) is amended to require that any minimum academic qualification for certification that requires a bachelor's degree must require that the person receive training and instruction regarding mental health, substance abuse, and youth suicide. The instruction required must be provided through a program selected from the list of recommended best practice-based programs established under Section 161.325, Health and Safety Code; and include effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports.

This bill also repeals Subsection (c-2) of Section 21.044 of the Education Code (which related to the instruction required for mental and emotional disorders).

**Impact:** This bill may impact UT System academic institutions that offer educator certification that require bachelors' degrees, which will now require training and instruction regarding mental health, substance abuse, and youth suicide. UT System academic institution Colleges of Education should be made aware of this bill that may require curriculum changes.

**Implementation:** UT System academic institution Colleges of Education may require curriculum changes.

**Effective:** September 1, 2015

Melissa V. Garcia

[\*\*SB 1214\*\*](#) by Taylor, et al. and Miller, et al

Relating to the use of human remains for forensic science education, including the training of search and rescue animals

This bill amends various provisions of the Texas Health & Safety Code, Sections 691 and 692. Substantively, the crux of this bill expands the donation of human remains for purposes of education to include forensic science education. It expands the ability for the Anatomical Board of the State of Texas (Board) to redistribute human bodies donated to

it, to medical or dental schools, or to other donees authorized by the Board to also include (1) forensic science programs; and (2) search and rescue organizations or recovery teams that are recognized by the Board, are exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, and use human remains detection canines with the authorization of a local or county law enforcement agency (NOTE: The current law allows for the Board to distribute human remains to (1) schools and colleges of chiropractic, osteopathy, medicine, or dentistry incorporated in this state; and (2) physicians).

**Impact:** To the extent UT System institutions have forensic science programs, they should be aware of the potential to receive donated human remains from the Board for purposes of forensic science education.

**Effective:** September 1, 2015

Melissa V. Garcia

[SB 1750](#) by West, et al. and Murphy

Relating to the requirements for employment positions provided through the Texas college work-study program.

This bill amends Section 56.076 of the Education Code to require that a certain percentage of college work-study employment opportunities be located off-campus.

Specifically, the bill requires that each institution shall ensure that at least 20 percent, but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by eligible employers who are providing employment located off campus.

The bill also requires that the Coordinating Board submit a biennial report to the appropriate legislative committee that includes the total number of students employed through the program, disaggregated by: (1) the employer's location on or off campus; and (2) the employer's status as a for-profit or not-for-profit entity.

**Impact:** Institutions will have to diligently work to recruit and sustain more off-campus employers for the program.

**Implementation:** UT System institutions will need to recruit off-campus employers and carefully track the job placement of their work-study participants.

**Effective:** June 19, 2015

Ashley A. Palermo

[HB 909](#) by Phillips and Watson

Relating to the tasting of alcoholic beverages by students enrolled in certain courses.

HB 909 amends the Alcoholic Beverage Code to allow minors to taste (but not swallow or consume) an alcoholic beverage if the minor (1) is at least 18 years old, (2) is enrolled as a student in a course at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology, (3) tastes the beverage for educational purposes as part of the curriculum for such a course and is supervised by a faculty or staff member who is at least 21 years old, and (4) does not purchase the beverage.

However, HB 909 provides that neither a public or private institution of higher education, nor a career school or college, is required to hold a permit or license in order to engage in the above activities.

**Impact:** UT institutions with a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology need to consider how the changes made by HB 909 will affect the courses offered in such a program.

**Implementation:** The academic offices at each UT institution must determine the applicability of the changes made by HB 909 to programs and courses at the institution.

**Effective:** September 1, 2015

Scott Patterson

[SB 1470](#) by Watson and Raney

Relating to the establishment of state authorization reciprocity agreements for postsecondary distance learning courses.

SB 1740 requires the Texas Higher Education Coordinating Board (THECB) to execute a state authorization reciprocity agreement (SARA) for delivery among the states of postsecondary distance education. Under such an agreement, individual institutions would participate through application to the coordinating board rather than negotiating individual approval from another state's regulatory authority. The agreement would establish comparable standards among the participants for distance education and provide for a dispute resolution process. Participating institutions outside of Texas will be able to offer a distance education course within this state without separate approval from the coordinating board.

The THECB is to develop and submit a SARA plan and application to the Southern Regional Education Board, or other appropriate regional authority, not later than September 1, 2016.

**Impact:** Participating in SARA will simplify the ability of a university to deliver distance education to students in other jurisdictions and reduce to some degree the overall regulatory costs. Participating in SARA may ameliorate the effect of a proposed federal Department of Education regulation that would deny federal financial aid for a student

taking online courses or otherwise getting educational benefits from a university not authorized to operate by the foreign state in which the student takes such a course.

**Implementation:** No direct implementation responsibility on the part of UT System institutions. Institutions should monitor the THECB development and execution of the SARA and may have the opportunity to comment on the proposed agreement.

**Effective:** May 23, 2015

Steve Collins

### **Student Issues**

[HB 18](#) by Aycock, et al. and Perry, et al.

Relating to measures to support public school student academic achievement and high school, college, and career preparation.

HB 18 requires school districts to provide instruction to students in grade seven or eight in preparing for high school, college, and a career. The statute specifies the information that must be reviewed and it includes information about the creation of a high school graduation plan.

HB 18 also requires the Center for Teaching and Learning at The University of Texas at Austin to develop and make available postsecondary education and career counseling academies for school counselors.

HB 18 also requires an institution of higher education that administers an assessment instrument under the Texas Success Initiative to report information to the high school from which the student graduated.

**Impact:** HB 18 impacts UT System institution charter schools with 7th or 8th grades because they are required to provide instruction to students regarding preparing for high school, college, and a career. HB 18 also impacts UT Austin's Center for Teaching and Learning because it is required to develop and make available postsecondary education and career counseling academies. HB 18 also impacts those UT System institutions that administer the TSI assessment instruments because they are required to report information, including information about the student's performance, to the high school from which the student graduated.

**Implementation:** Notify UT System institution charter school administrators so that they may review curriculum for the 7th or 8th grade to determine how to incorporate the required information about preparation for future education and career. Notify UT Austin's Center for Teaching and Learning so that they may develop the academies in accordance with the statutory requirements. Notify UT System institution offices that administer the TSI assessment instruments so that they can monitor rule development related to methods for providing the information required to high schools.

**Effective:** June 19, 2015

Priscilla A. Lozano

[HB 699](#) by Nevárez, et al. and Uresti

Relating to requiring public institutions of higher education to establish a policy on campus sexual assault.

This bill amends the Education Code by adding Section 51.9363.

"Institution of higher education" has the meaning assigned by Section 61.003 of the Education Code (and thus applies to all UT System institutions). Each institution of higher education must adopt a policy on campus sexual assault. The policy must include (A) definitions of prohibited behavior; (B) sanctions for violations; and (C) the protocol for reporting and responding to reports of campus sexual assault. In addition, the policy must be approved by the institution's governing board before final adoption by the institution.

This bill further requires that each institution of higher education shall make the institution's campus sexual assault policy available to students, faculty, and staff members by: (1) including the policy in the institution's student handbook and personnel handbook; and (2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.

This bill also requires that each institution of higher education require each entering freshman or undergraduate transfer student to attend an orientation on the institution's campus sexual assault policy before or during the first semester or term in which the student is enrolled at the institution. Each institution is required to establish the format and content of the orientation.

Finally, this bill also provides that each biennium, each institution of higher education shall review the institution's campus sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary.

**Impact:** This bill impacts all UT System institutions requiring each to review and revise sexual assault policies and websites to ensure compliance with this bill. This bill also requires prior approval from the Board of Regents prior to adoption by each institution. Finally, these policies will require review each biennium. Currently, Board of Regents' Rule 20201 requires that each institution's rules and regulations for the governance of the institution and any related amendments (i.e., Handbook of Operating Procedures (HOPs)—which includes policies related to sexual harassment and misconduct) be approved and submitted to the appropriate Executive Vice Chancellor and the Vice Chancellor and General Counsel. The bill, as written, does not account for this delegation of authority to the Executive Vice Chancellor and the Vice Chancellor and General Counsel for approval of HOPs. Therefore, the impact of this bill, as written, would require a revision to the Regents' Rule.

**Implementation:** This bill applies beginning the 2015 fall semester.

**Effective:** June 19, 2015

Melissa V. Garcia

[HB 2629](#) by Kacal, et al. and Hancock

Relating to unauthorized persons at public or private institutions of higher education in this state, and to trespass, damage, or defacement occurring on the grounds of those institutions; amending provisions subject to a criminal penalty and creating offenses.

This bill amends Subchapter E, Protection of Buildings and Grounds. Specifically, it amends Section 51.204 relating to trespass, damage and defacement of university property by expanding the provision to include not only public institutions but also private or independent institutions of higher education.

This bill also amends Section 51.208 of the Education Code by creating a criminal offense for trespass, damage or defacement of public or private university property. Specifically, a person who violates any provision of this subchapter, or any rule or regulation promulgated under this subchapter, commits a misdemeanor punishable by a fine of not more than \$200.

This bill also amends Section 51.209 (relating to unauthorized person, refusal of entry, ejection and identification) by expanding this provision to include private or independent universities. Of significance, this provision is amended to state that not only may identification be required of any person on public or private university property, but the person is required to provide identification on request.

Finally, this bill repeals Section 51.202(b)—which relates to penalty. However, this provision was moved to Section 51.208, so the law has not changed.

**Impact:** UT System institutions are impacted by the bill and should be aware of the criminal offenses implicated by the trespass, damage or defacing of university property. Although the law has not changed, the provision relating to criminal penalties is different. University police should also be aware of this provision.

**Implementation:** To the extent necessary, UT System police may need to update internal policies or procedures as it relates to the revised criminal penalties related to trespass, damage and defacement of university property.

**Effective:** September 1, 2015

Melissa V. Garcia

[HB 2739](#) by Capriglione, et al. and Birdwell

Relating to the use of a concealed handgun license as valid proof of personal identification.

HB 2739 adds Chapter 506 to the Business & Commerce Code providing that a person may not deny a holder of a concealed handgun license access to goods, services, or facilities because the holder has or presents a concealed handgun license rather than a driver's license for personal identification.

There are three exceptions which require the presentation of a driver's license: (1) in renting a car or operating a motor vehicle, (2) when responding to a demand by a peace officer for identification, both a driver's license and the handgun license must be presented if a handgun is being carried by a license holder, or (3) when required under federal law to access airport premises or pass through airport security.

**Impact:** UT police and UT employees who may request identification from individuals need to know these rules.

**Implementation:** Inform the pertinent employees and the UT System and UT institution police.

**Effective:** September 1, 2015

Jack C. O'Donnell

[HB 197](#) by Price, et al. and Nelson

Relating to requiring certain public institutions of higher education to post information regarding mental health resources on the institution's Internet website.

HB 197 requires institutions of higher education to maintain a dedicated web page on the institution's Internet website dedicated solely to the information regarding the mental health resources available to students at the institution. The web page must include the address of the nearest local mental health authority.

**Impact:** Many UT System institutions already have this information on their website, but it may not be on a dedicated page.

**Implementation:** Both the general academic and the health-related institutions must review their respective websites for posting of the required information on a dedicated web page. The law requires compliance as "soon as practicable."

**Effective:** September 1, 2015

Steve Collins



**SB 1624** by Rodríguez, et al. and Márquez

Relating to requirement that certain entering students at a general academic teaching institution receive information regarding mental health and suicide prevention services.

This bill amends Subchapter Z, Chapter 51 of the Education Code by adding Section 51.9194. Section 51.9194 states that a general academic teaching institution is required to provide each entering student, including each entering full-time undergraduate, graduate or professional student, including each full-time undergraduate, graduate, or professional student who transfers to the institution, information about:

- available mental health and suicide prevention services offered by the institution or by any associated organizations or programs; and
- early warning signs that are often present in and appropriate intervention for a person who may be considering suicide.

The bill also requires that the orientation must be in the form of a live presentation or a format that allows for student interaction, such as an online program or video. However, this orientation may not be provided in a paper format only.

**Impact:** UT System academic institutions should be made aware of this new orientation requirement for entering full-time undergraduate, graduate or professional student, including each full-time undergraduate, graduate, or professional student who transfers to the institution.

**Implementation:** This bill applies to full-time entering students who are admitted to an undergraduate, graduate, or professional degree program at a general academic teaching institution beginning with the 2016 fall semester. Therefore, before the 2016 fall semester each institution will need to determine the department responsible for the new orientation topic, create training resources, and preparation of a live presentation or a format that allows for student interaction, such as an online program or video. Although paper training materials may need to be created and distributed, this new training requirement may not be done solely via a paper format.

**Effective:** September 1, 2015

Melissa V. Garcia

**SB 1750** by West, et al. and Murphy

Relating to the requirements for employment positions provided through the Texas college work-study program.

This bill amends Section 56.076 of the Education Code to require that a certain percentage of college work-study employment opportunities be located off-campus.

Specifically, the bill requires that each institution shall ensure that at least 20 percent, but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by eligible employers who are providing employment located off campus.

The bill also requires that the Coordinating Board submit a biennial report to the appropriate legislative committee that includes the total number of students employed through the program, disaggregated by: (1) the employer's location on or off campus; and (2) the employer's status as a for-profit or not-for-profit entity.

**Impact:** Institutions will have to diligently work to recruit and sustain more off-campus employers for the program.

**Implementation:** UT System institutions will need to recruit off-campus employers and carefully track the job placement of their work-study participants.

**Effective:** June 19, 2015

Ashley A. Palermo

[HB 910](#) by Phillips, et al. and Estes, et al.

Relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.

Omits the word "concealed" in Subchapter H, Chapter 411 of the Government Code, which is the subchapter authorizing a license to carry concealed handguns, so that a person can receive a license to openly carry a handgun. Also omits the word "concealed" in various state statutes dealing with concealed handguns such as the Alcoholic Beverage Code, Family Code, and the Code of Criminal Procedure.

Amends Section 411.2032(b), Government Code, to provide that:  
"Campus" means all land and buildings owned or leased by an institution of higher education.

"Institution of higher education" has the meaning assigned by Section 61.003 of the Education Code.

An institution of higher education may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Sections 30.06 or 30.07, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under this subchapter and lawfully possesses the firearm or ammunition:

- on a street or driveway located on the campus of the institution; or

- in a parking lot, parking garage, or other parking area located on the campus of the institution.

Amends Section 52.061, Labor Code, to provide that:

A public employer may not prohibit an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Amends Section 52.062, Labor Code, to provide that:

Section 52.061 does not:

- authorize a person who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law;
- apply to a vehicle owned or leased by a public employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties; or
- prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Amends Sections 30.06 (a), (c)(3), and (d), Penal Code, to provide that:

A license holder commits an offense if the license holder:

- carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder with a concealed handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication" means:

- (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or
- (B) a sign posted on the property that:

- (i) includes the language described by Paragraph (A) in both English and Spanish;
- (ii) appears in contrasting colors with block letters at least one inch in height; and
- (iii) is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Amends Chapter 30, Penal Code, by adding Section 30.07, to provide that:

A license holder commits an offense if the license holder:

- openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

In this section:

- "Entry" has the meaning assigned by Section 30.05(b).
- "License holder" has the meaning assigned by Section 46.035(f).
- "Written communication" means:
  - (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H,

Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or

- (B) a sign posted on the property that:
- (i) includes the language described by Paragraph (A) in both English and Spanish;
  - (ii) appears in contrasting colors with block letters at least one inch in height; and
  - (iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

Amends Section 46.02(a-1), Penal Code, to provide that:

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster.

Amends Sections 46.035 (a)-(d), (g)-(j), and adds Subsection (a-1), Penal Code, to provide that:

- (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person and intentionally displays the handgun in plain view of another person in a public place, unless the handgun was partially or wholly visible and was carried in a shoulder or belt holster by the license holder.
- (a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person and intentionally displays the handgun in plain view of another person:
  - on the premises of an institution of higher education; or

- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.
- (b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person:
- (1) on the premises of a business that derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption.
  - (2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. However, it is not an offense on the premises where a collegiate sporting event is taking place if the license holder was not given effective notice under Penal Code section 30.06.
  - (3) on the premises of a correctional facility.
  - (4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing facility administration, as appropriate. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
  - (5) in an amusement park. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07; or
  - (6) on the premises of a church, synagogue, or other established place of religious worship. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
- (c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, at any meeting of a governmental entity. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
- (d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.
- (g) An offense under this section is a Class A misdemeanor, unless the offense is committed under Subsections (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

- (h) It is a defense to prosecution under Subsections (a) or (a-1) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9, Penal Code.
- (j) Subsections (a), (a-1), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

The change in law made by this Act relating to the authority of a license holder to openly carry a holstered handgun applies to the carrying of a handgun on or after the effective date of this Act by any person who:

- holds a license issued under Subchapter H, Chapter 411, Government Code, regardless of whether the person's license was issued before, on, or after the effective date of this Act; or
- applies for the issuance of a license under that subchapter, regardless of whether the person applied for the license before, on, or after the effective date of this Act.

**Impact:** Open carry of handguns is prohibited in UT institution buildings or a portion of a building, and on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution. However, open carry will be legal just outside the boundaries of UT institutions in areas with high concentrations of students or employees in retail establishments, social gathering locations, or in private housing. These areas are also routinely patrolled by UT institution police and UT institution police regularly engage in law enforcement and order maintenance activities in these areas.

**Implementation:**

- Training for UT System and UT institution police.
- Educational materials/website for employees and students.

**Effective:** January 1, 2016

Jack C. O'Donnell

[SB 11](#) by Birdwell, et al. and Fletcher

Relating to the carrying of handguns on the campuses of and certain other locations associated with institutions of higher education; providing a criminal penalty.

This act amends various statutes, which will be addressed separately herein:

Chapter 411 of the Government Code revisions

Amends Subchapter H, Chapter 411 of the Government Code by adding section 411.2031 which provides that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by an institution of higher education.

Bars an institution of higher education from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on all land and buildings owned or leased by the institution of higher education, except that:

- an institution of higher education may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.
- an institution of higher education shall establish reasonable rules, regulations, or other provisions that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institution may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The institution must give effective notice under Section 30.06, Texas Penal Code, with respect to any portion of a premises on which license holders may not carry.

The Board of Regents shall review the institution’s rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules, regulations, or other provisions are established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution’s rules, regulations, or other provisions.

The institution shall widely distribute its rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.



Not later than September 1 of each even-numbered year, each institution of higher education shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution, and that explains its reasons for establishing these provisions.

#### Section 411.208 of the Government Code

Amends Section 411.208 (a), (b), and (d), and adds Subsection (f) of the Texas Government Code to provide that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

A court may not hold the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor liable for damages caused by:

- an action authorized under Subchapter H, Chapter 411 of the Government Code or a failure to perform a duty imposed by Subchapter H; or
- the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under Subchapter H.

A cause of action in damages may not be brought against the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under Subchapter H, Chapter 411 of the Government Code.

The immunities granted above in this section do not apply to:

- an act or a failure to act by the state, an agency of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary; or
- any officer or employee of an institution of higher education who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

#### Section 46.03 of the Texas Penal Code

Amends Section 46.03 (a) and (c) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm

- on the physical premises of an educational institution, any grounds or building on which an activity sponsored by an educational institution is being conducted, or a passenger transportation vehicle of an educational institution, whether the educational institution is public or private, unless:
  - pursuant to written regulations or written authorization of the institution; or
  - the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.
- on the premises of a polling place on the day of an election or while early voting is in progress.

#### Section 46.035 of the Texas Penal Code

Amends Section 46.035 (f), (g), (h), and (j), and adds Subsections (a-1), (a-2), (a-3), and (l) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A license holder commits a Class A misdemeanor offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder’s person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

- on the premises of an institution of higher education; or

- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.
- This offense does not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.
- It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

A license holder commits a Class A misdemeanor offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by institution rules, regulations, or other provisions, provided the institution gives effective notice under Section 30.06 with respect to that portion. This offense does not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission. It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

It is not an offense for a license holder to carry a concealed handgun on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.

**Impact:** **SB 11** allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by the UT System or all UT institutions. It also requires the UT institutions to establish reasonable rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

The UT System, all UT institutions, or an officer or employee of either, may be held liable for damages for an act or a failure to act concerning actions authorized or duties imposed by this campus carry law if the act or failure to act was capricious or arbitrary.

Any officer or employee of the UT System or any UT institution who possesses a handgun on campus, and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage, may be held liable for damages.

Makes it a crime for a license holder to intentionally or knowingly display a handgun in plain view of another person:

- on the premises of UT System or any UT institution; or

- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of UT System or any UT institution.

Makes it a crime for a license holder to intentionally carry a concealed handgun on a portion of a building located on campus on which the carrying of a concealed handgun is prohibited by a rule of the institution, provided the institution gives effective notice under Texas Penal Code Section 30.06 with respect to that portion.

**Implementation:** Requires the UT institutions to establish reasonable rules that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.

The Board of Regents shall review the institution's rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules are established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution's rules.

Each institution shall widely distribute its rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.

Not later than September 1 of each even-numbered year, each institution shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules regarding the carrying of concealed handguns on the campus of the institution and that explains its reasons for establishing these provisions.

Training for UT System and UT institution police should be provided.

Educational materials will need to be provided for employees and students and, to the extent necessary UT System academic institutions may need to make modifications to current catalogs, publications, and websites

The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

**Effective:** August 1, 2016

Jack C. O'Donnell

## Elementary and Secondary Education

[\*\*HB 4\*\*](#) by Huberty, et al. and Campbell, et al.

Relating to prekindergarten (Pre-K), including a high quality prekindergarten grant program provided by public school districts.

HB 4 requires the commissioner of education to establish a funding program to promote school district participation in high quality Pre-K programs. A participating school district must fully align their curriculum with the Pre-K guidelines and measure progress to meet the learning outcomes outlined in those guidelines. Pre-K teachers must also be appropriately certified in early childhood education as outlined in the current Texas Education Code and have an additional qualification as specified in the statute. Finally, individual districts are required to develop a parental engagement plan to establish and maintain high levels of family involvement in the student's educational career.

**Impact:** HB 4 impacts UT System institution charter schools since they would be eligible to receive additional funds for certain 4-year-old Pre-K students, such as those from low-income families, if the school elects to develop and implement a Pre-K program in accordance with program rules established by the commissioner of education and in accordance with this statute.

**Implementation:** Notify UT System institution charter school administrators.

**Effective:** May 28, 2015

Priscilla A. Lozano

[\*\*HB 18\*\*](#) by Aycock, et al. and Perry, et al.

Relating to measures to support public school student academic achievement and high school, college, and career preparation.

HB 18 requires school districts to provide instruction to students in grade seven or eight in preparing for high school, college, and a career. The statute specifies the information that must be reviewed and it includes information about the creation of a high school graduation plan.

HB 18 also requires the Center for Teaching and Learning at The University of Texas at Austin to develop and make available postsecondary education and career counseling academies for school counselors.

HB 18 also requires an institution of higher education that administers an assessment instrument under the Texas Success Initiative to report information to the high school from which the student graduated.

**Impact:** HB 18 impacts UT System institution charter schools with 7th or 8th grades because they are required to provide instruction to students regarding preparing for high

school, college, and a career. HB 18 also impacts UT Austin's Center for Teaching and Learning because it is required to develop and make available postsecondary education and career counseling academies. HB 18 also impacts those UT System institutions that administer the TSI assessment instruments because they are required to report information, including information about the student's performance, to the high school from which the student graduated.

**Implementation:** Notify UT System institution charter school administrators so that they may review curriculum for the 7th or 8th grade to determine how to incorporate the required information about preparation for future education and career. Notify UT Austin's Center for Teaching and Learning so that they may develop the academies in accordance with the statutory requirements. Notify UT System institution offices that administer the TSI assessment instruments so that they can monitor rule development related to methods for providing the information required to high schools.

**Effective:** June 19, 2015

Priscilla A. Lozano

[\*\*HB 505\*\*](#) by Rodriguez, Eddie et al., and Estes, et al.

Relating to a prohibition of limitations on the number of dual credit courses or hours in which a public high school student may enroll.

House Bill 505 repeals an Education Code provision prohibiting a high school student from enrolling in more than three dual credit courses at a junior college if the junior college does not have a service area that includes the student's high school. The bill also amends the Education Code to prohibit certain limitations on the number of dual credit courses or hours in which a high school student may enroll as part of a college credit program.

**Impact:** The bill impacts UT System institution charter schools with high school students since the school will not be able to limit the number of dual credit courses in which the high school student enrolls. The bill also impacts UT System institutions who participate in offering dual credit classes since students may wish to enroll in more college courses to earn college credit simultaneously with high school credit.

**Implementation:** UT System institution charter school administrators should be notified. UT System academic, health and dental institutions may wish to review dual credit agreements with high schools in light of HB 505 to determine whether there are additional opportunities for agreements with high schools.

**Effective:** May 23, 2015

Priscilla A. Lozano

[\*\*HB 1783\*\*](#) by Moody, et al. and Menéndez

Relating to the right of a school employee to report a crime, persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency,

and the reporting of criminal history record information of educators and other public school employees who engage in certain misconduct; creating a criminal offense.

HB 1783 requires a superintendent or director of a school to report to the State Board for Educator Certification if the educator's employment was terminated based on evidence that the educator was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor, or the educator resigned in light of evidence that there was misconduct involving a student or minor. Further, HB 1783 requires that an investigation of certain allegations involving misconduct with a student or minor be completed despite the resignation of the educator. HB 1783 prohibits a school from adopting a policy requiring a school employee to refrain from reporting a crime witnessed at the school or limiting their right to report a crime. HB 1783 also makes it a crime to coerce another into suppressing or failing to report information regarding violations of law to a law enforcement agency.

**Impact:** HB 1783 impacts UT System institution charter schools. They will be required to report certain allegations involving misconduct with a student or minor to the State Board for Educator Certification. They will also be required to complete an investigation of certain allegations of misconduct despite an educator's resignation. HB 1783 should not significantly impact UT System institution charter schools since policies with similar requirements should already be in place.

**Implementation:** UT System institution charter schools should review policies regarding educator misconduct to ensure that they comport with HB 1783 requirements (as well as UT System Sexual Misconduct policy) and include the requirement of SBEC notification. They should also ensure that there is no policy or practice prohibiting an employee from reporting a crime to any peace officer with the authority to investigate.

**Effective:** September 1, 2015

Priscilla A. Lozano

[HB 1992](#) by Zerwas, et al. and Bettancourt, et al.

Relating to the granting of undergraduate course credit by advanced placement examination at public institutions of higher education.

This bill amends Section 51.968 of the Education Code by adding Subsection (c-1). This bill states that in establishing the minimum required score on an Advanced Placement examination for granting course credit under Subsection (c), an institution of higher education may not require a score of more than three unless the institution's chief academic officer determines, based on evidence, that a higher score on the examination is necessary to indicate a student is sufficiently prepared to be successful in a related, more advanced course for which the lower-division course is a prerequisite.

This bill also amends Subchapter C, Chapter 61 of the Education Code by adding Section 61.0518 entitled "Study on Undergraduate Course Credit for Advanced Placement Examinations" (which will expire September 1, 2019). This newly added provision

requires the Texas Higher Education Coordinating Board (Coordinating Board), in consultation with institutions of higher education, the board's Undergraduate Education Advisory Committee, and other interested parties, to conduct a study on the performance of undergraduate students at institutions of higher education who receive undergraduate course credit for achieving required scores on one or more Advanced Placement examinations.

More specifically, the study must compare the academic performance, retention rates, and graduation rates at institutions of higher education of students who complete a lower-division course at an institution, and students who receive credit for that course for a score of three or more on an Advanced Placement examination, disaggregated by score. This bill also requires that each institution of higher education submit to the Coordinating Board any data requested by the Coordinating Board as necessary for it to carry out the duties related to this study.

Not later than January 1, 2017, the Coordinating Board must submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over higher education a progress report that examines the academic performance at institutions of higher education of students who received undergraduate course credit for a score of three on one or more Advanced Placement examinations, and any recommendations for legislative or administrative action.

Not later than January 1, 2019, the Coordinating Board must submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over higher education a report regarding the results of the study conducted under this section and any recommendations for legislative or administrative action.

The Coordinating Board must adopt rules as necessary to implement this study in a manner that ensures compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

**Impact:** Admission offices at UT System academic institutions should be aware of these changes relating to minimum required score on an Advanced Placement examination for granting course credit and would need to make modifications to catalogs, publications, and websites as necessary. Further, to the extent any UT System academic institution is asked by Coordinating Board to provide data needed for the Study on Undergraduate Course Credit for Advanced Placement Examinations, each institution must be prepared to provide such data and information accordingly.

**Effective:** June 3, 2015

Melissa V. Garcia



[HB 2014](#) by Sheets, et al. and Taylor, et al.

Relating to the authority of military personnel to obtain certification to teach career and technology education classes in public schools.

Section 21.049 of the Texas Education Code requires the Texas State Board for Educator Certification (Board) to establish rules for educator certification programs as an alternative to traditional educator preparation programs. One example of such a program is Texas Troops to Teachers, which supports former military personnel in their transition from armed services to the classroom. Alternative certification programs for veterans exist, but many do not satisfy the complex licensure requirements to teach career and technology education courses.

This bill expands eligibility for military personnel seeking career and technology education certification. Military personnel would be considered to have satisfied the State Board for Educator Certification's requirement of obtaining a license or professional credential for a specific trade if the individual has experience in that trade obtained through military service. This bill further states that the Board may not propose rules requiring a current or former member of the United States armed services who seeks career and technology education certification for a specific trade to hold a credential related to that trade or possess experience related to that trade other than the experience in that trade obtained through military service.

**Impact:** To the extent this impacts charter schools within the UT System academic institutions, each should also be aware of these changes and would need to make modifications to catalogs, publications, and websites as necessary.

**Implementation:** UT System academic institution charter schools should be aware of this certification requirement being fulfilled by applicants with military experience in a specific trade obtained during their military service.

**Effective:** June 17, 2015

Melissa V. Garcia

[HB 2186](#) by Cook, et al. and Campbell

Relating to suicide prevention training for educators in public schools. HB 2186 requires suicide prevention training for new school district employees and for existing employees on a schedule adopted by Texas Education Agency rule.

**Impact:** HB 2186 impacts UT System institution charter schools that will have to ensure the required training occurs.

**Implementation:** UT System institution charter schools should review educator training requirements to ensure that suicide prevention is included.

**Effective:** June 19, 2015

Priscilla A. Lozano

**SB 149** by Seliger, et al. and Huberty

Relating to alternative methods for satisfying certain public high school graduation requirements, including the use of individual graduation committees.

SB 149 requires a school district to establish an individual graduation committee for an 11th or 12th grade student who has not met the end-of-course assessment requirements for no more than two courses. The committee shall determine whether the student may graduate notwithstanding the end-of-course assessment and recommend graduation requirements to demonstrate proficiency in the subject area.

**Impact:** Impact: SB 149 impacts UT System institution charter schools because they are required to establish an individual graduation committee (as specified in the statute) for each qualifying student who did not meet an end-of-course assessment requirement. The committee is required to recommend graduation requirements in line with the criteria established in the statute.

**Implementation:** UT System institution charter schools should establish processes for identifying the eligible students, appointing the committee, providing the required notice to parents and establishing graduation requirements in line with the required criteria.

**Effective:** May 11, 2015

Priscilla A. Lozano

**SB 1494** by Uresti, et al. and Turner, et al.

Relating to the educational needs of homeless students. SB 1494 requires the Texas Education Agency (TEA) to develop procedures to facilitate the transition of homeless students from one school to another.

**Impact:** SB 1494 impacts UT System institution charter schools to the extent that they serve homeless students who transfer to or from the school. The procedures that TEA will develop will address matters such as transferring records and accepting referrals from the previous school regarding special education services. The impact should not be substantial since current law already provides for such procedures for students who are in substitute care. SB 1494 merely extends the requirements for homeless students.

**Implementation:** UT System institution charter schools administrators should be notified so that they can ensure that their procedures regarding homeless students comply with TEA requirements to facilitate the transfer of homeless students and students in substitute care from one school to another.

**Effective:** June 19, 2015

Priscilla A. Lozano

**SB 453** by Seliger and Clardy

Relating to minimum scores required for public school students to receive credit by an examination administered through the College-Level Examination Program (CLEP).

This bill amends Section 28.023 (c-1) of the Texas Education Code. Specifically, subsection (2) is amended to allow for a scaled score of 50 (previously 60) or higher on an exam administered through CLEP.

The changes in law made by this Act apply to an exemption from tuition and fees beginning with the 2015-2016 school year.

**Impact:** UT System academic institutions' admissions and registrar offices should be made aware of the revised scoring system on CLEP examinations that impact course credit for public secondary education students.

**Implementation:** To the extent necessary, UT System academic institutions may need to make modifications to catalogs, publications, and websites.

**Effective:** June 19, 2015

Melissa V. Garcia

**HB 218** by Márquez, et al. and Rodríguez

Relating to certification requirements for teachers in bilingual education.

HB 218 amends the certification requirements of teachers in bilingual education.

**Impact:** HB 218 impacts UT System institution charter schools that are required to have bilingual education classes. It increases the flexibility of the schools using a dual language immersion one-way or two-way program model in staffing the English component of the program.

**Implementation:** UT System institution charter schools should be notified so that they can review staffing needs for their bilingual education programs.

**Effective:** June 15, 2015

Priscilla A. Lozano

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## Medical Education

[HB 2629](#) by Kacal, et al. and Hancock

Relating to unauthorized persons at public or private institutions of higher education in this state, and to trespass, damage, or defacement occurring on the grounds of those institutions; amending provisions subject to a criminal penalty and creating offenses

This bill amends Subchapter E, Protection of Buildings and Grounds. Specifically, it amends Section 51.204 relating to trespass, damage and defacement of university property by expanding the provision to include not only public institutions but also private or independent institutions of higher education.

This bill also amends Section 51.208 of the Education Code by creating a criminal offense for trespass, damage or defacement of public or private university property. Specifically, a person who violates any provision of this subchapter, or any rule or regulation promulgated under this subchapter, commits a misdemeanor punishable by a fine of not more than \$200.

This bill also amends Section 51.209 (relating to unauthorized person, refusal of entry, ejection and identification) by expanding this provision to include private or independent universities. Of significance, this provision is amended to state that not only may identification be required of any person on public or private university property, but the person is required to provide identification on request.

Finally, this bill repeals Section 51.202(b)—which relates to penalty. However, this provision was moved to Section 51.208, so the law has not changed.

**Impact:** UT System institutions are impacted by the bill and should be aware of the criminal offenses implicated by the trespass, damage or defacing of university property. Although the law has not changed, the provision relating to criminal penalties is different. University police should also be aware of this provision.

**Implementation:** To the extent necessary, UT System police may need to update internal policies or procedures as it relates to the revised criminal penalties related to trespass, damage and defacement of university property.

**Effective:** September 1, 2015

Melissa V. Garcia

[HB 495](#) by Howard and Hinojosa

Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.

Sections 63.202(f) and (g) of the Education Code are amended by extending the award period from the state fiscal biennium on August 31, 2017 and the fiscal biennium ending on August 31, 2019.

This bill also provides that Subsections (f) and (g) do not expire until September 1, 2019.

**Impact:** This bill impacts UT System's institutions that receive funding from the permanent health fund for the nursing, allied health, and other health-related programs and should be aware of the extension periods.

**Implementation:** U.T. institutions should be aware of these changes due to the potential fiscal impact.

**Effective:** May 29, 2015

Melissa V. Garcia

[HB 3078](#) by Darby and Seliger

Relating to the creation of an advisory committee to recommend a uniform pre-nursing curriculum for undergraduate professional nursing programs offered by public institutions of higher education.

HB 3078 establishes the Uniform Pre-Nursing Curriculum Advisory Committee to make recommendations regarding the prerequisite courses required for an undergraduate professional nursing program and the content of those courses. The committee has statutorily prescribed membership that includes at least 12 institutions with professional nursing programs, with at least three representatives each from junior colleges, general academic teaching institutions, and health science centers. Those appointments are made by the Texas Higher Education Coordinating Board. The advisory committee is to report its recommendations to the legislatures not later than December 1, 2016.

**Impact:** The recommendations of the advisory committee may lead to a statutory pre-nursing curriculum for professional nursing programs, eliminating the traditional practice in which the academic curriculum for such a program is established by the faculty of the respective institutions.

**Implementation:** No direct implementation responsibility on the part of UT System institutions. However, an institution with a nursing program may choose to proactively pursue appointment to the advisory committee to ensure representation of the institution's interests.

**Effective:** June 18, 2015

Steve Collins

**SB 295** by Schwertner et al. and Guillen

Relating to tracking career information for graduates of Texas medical schools and persons completing medical residency programs in Texas.

SB 295 adds a section to the Education Code requiring the Texas Higher Education Coordinating Board to establish and maintain a data tracking system regarding:

- Initial residency program choices by graduates of Texas medical schools
- Initial practice choices made by physicians completing Texas medical residency programs and for a 2 year period following completion of residency, relevant information including:
  - Whether, and for how long, the physicians work in primary care in Texas
  - Which specialties they practice and
  - Locations of their practices
- The tracking system shall be established by January 1, 2016

**Impact:** Information concerning retention of Texas medical students and resident physicians in Texas, practice specialties, and geographic location will be useful to UT System and its health institutions, particularly regarding the provision of primary care in underserved areas of the state.

**Implementation:** U.T. medical schools and residency programs should prepare to provide the required data.

**Effective:** September 1, 2015

Allene Evans

**SB 1214** by Taylor, et al. and Miller, et al.

Relating to the use of human remains for forensic science education, including the training of search and rescue animals.

This bill amends various provisions of the Texas Health & Safety Code, Sections 691 and 692. Substantively, the crux of this bill expands the donation of human remains for purposes of education to include forensic science education. It expands the ability for the Anatomical Board of the State of Texas (Board) to redistribute human bodies donated to it, to medical or dental schools, or to other donees authorized by the Board to also include (1) forensic science programs; and (2) search and rescue organizations or recovery teams that are recognized by the Board, are exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, and use human remains detection canines with the authorization of a local or county law enforcement agency (NOTE: The current law allows for the Board to distribute human remains to (1) schools and colleges of chiropractic, osteopathy, medicine, or dentistry incorporated in this state; and (2) physicians).

**Impact:** To the extent UT System institutions have forensic science programs, they should be aware of the potential to receive donated human remains from the Board for purposes of forensic science education.

**Implementation:** N/A

**Effective:** September 1, 2015

Melissa V. Garcia

**SB 18** by Nelson, et al. and Zerwas

Relating to measures to support or enhance graduate medical education in this state, including the transfer of certain assets from the Texas Medical Liability Insurance Underwriting Association to the permanent fund supporting graduate medical education and the authority of the association to issue new policies.

This bill does the following:

- sets up a new permanent fund supporting graduate medical education (“GME”);
- creates new grant programs to fund graduate medical education ;
- makes the Comprehensive Health Professions Resource Center responsible for conducting and reporting research regarding current and future health care provider needs in Texas; and
- requires and provides for dissolution of the Texas Medical Liability Insurance Underwriting Association by August 31, 2017.

Permanent Fund Supporting Graduate Medical Education (created by adding §58A.002 to Chapter 58A of Texas Education Code).

- Permanent fund in the treasury outside the general revenue fund which is administered by the Texas Treasury Safekeeping Trust Company composed of money appropriated or transferred by the Legislature, gifts and grants, and returns from investment of fund monies. Not subject to Government Code §403.095 (Use of Dedicated Revenue) or §404.071 (Disposition of Interest on Investments).
- Money from fund may only be appropriated to: a) the Texas Higher Education Coordinating Board (THECB) to fund the grant programs in Chapter 58A (see grant programs below); *or* b) as otherwise directed by the legislature.

Grant Programs:

- The grant programs that can receive funds from the new Permanent Fund are those programs established under Chapter 58A.
- The bill changes the provisions relating to the following existing grant programs:

- Graduate Medical Education Planning and Partnership Grants (§58A.022, formerly titled Planning Grants)
- Grants for Unfilled Residency Positions (§58A.023)
- Grants for Program Expansion or New Program (§58A.024)
- The bill sets out prioritization based on critical shortage levels for awarding grants when the number of first-year residency positions proposed by eligible applicants under §58A.023 and §58A.024 exceeds the number of first-year residency positions for which grant funding under those provisions is appropriated.
- The bill provides for continuation of grants awarded for the 2015 state fiscal year at §58A.0246.

Transfer of Medical Liability Insurance Joint Underwriting Association (Association) Assets

Requires the Texas Department of Insurance to determine the amount of assets necessary for the Associations known and unknown claims, costs, and administrative expenses. Assets that are not necessary for those purposes may be transferred to the Permanent Fund Supporting Graduate Medical Education.

**Impact:** UT Health Institutions and programs will have access to funding for graduate medical education through the Permanent Fund Supporting Graduate Medical Education for the grant programs that are established under Chapter 58A of the Education Code. Since the bill changes the provisions relating to the grant programs set out in Chapter 58A, our institutions that currently, or would like to, receive funds through one of those programs should be made aware of those program changes to ensure future funding.

**Implementation:** Those in charge of funding and operation of our residency programs should familiarize themselves with the new terms of the Chapter 58A grant programs to ensure eligibility for funding under those sources.

**Effective:** September 1, 2015

Bridget McKinley

[\*\*SB 1466\*\*](#) by Watson and Clardy

Relating to the definition of medical schools for medical residency programs.

S.B. 1466 updates the names of medical schools and medical residency programs within the state of Texas. The bill updates the name of the University of Texas Southwestern Medical Center, and adds the medical school at the University of Texas at Austin, the medical school at the University of Texas Rio Grande Valley, and the medical education

program of the University of Texas Health Science Center at Tyler to the definition of a medical school.

**Impact:** The University of Texas Southwestern Medical Center, and the medical school at the University of Texas at Austin, the medical school at the University of Texas Rio Grande Valley, and the medical education program of the University of Texas Health Science Center at Tyler should be aware that they have been added to the definition of a medical school in the Education Code.

**Implementation:** Currently this bill does not require any implementation by the University of Texas Southwestern Medical Center, the medical school at the University of Texas at Austin, the medical school at the University of Texas Rio Grande Valley, or the medical education program of the University of Texas Health Science Center at Tyler as each complies with the requirements of the Education Code.

**Effective:** May 15, 2015

Timothy Boughal

[SB 2031](#) by Watson, et al. and Howard

Relating to the date for publication of the factors considered for admission to a new graduate and professional program.

SB 2031 authorizes a general academic teaching institution or medical or dental unit to delay publication of the factors that it will consider in its graduate and professional program admissions decisions if compliance with accreditation agency requirements prevents a timely publication.

**Impact:** SB 2031 impacts UTRGV and UT Austin medical schools to the extent that they may not be able to timely publish admission criteria because of accreditation agency requirements. They are required by SB 2031 to publish as soon as practicable.

**Implementation:** Regents' Rules and Regulations, Rule 40303 should be reviewed for amendment. Institution Handbook of Operating Procedures regarding admission and catalog information regarding admission should be reviewed for possible amendment.

**Effective:** May 23, 2015

Priscilla A. Lozano

### **Health Professions**

[HB 1924](#) by Coleman, et al. and Eltife

Relating to the authority of a psychologist to delegate certain care to an intern.

This bill amends section 501.351(a) of the Occupations code, regarding psychologists. Previously, a licensed psychologist could delegate certain psychological tests and services to:

- provisionally licensed psychologists,
- newly licensed psychologist, or
- a person who holds a temporary license.

This bill expands the list of individuals to whom a psychologist could delegate duties by one. A psychologist may now delegate psychologist duties to a person enrolled in a formal internship as provided by board rules.

The Board of Examiners of Psychologists will be responsible for creating rules which govern these formal internships. Because the bill does not specify any detail regarding the internships, the scope of the internships will be decided entirely by the Board.

**Impact:** Depending on the rules adopted by the Board, this change could allow our academic faculty who are psychologists to delegate additional duties to students if they are part of a formal internship. This provision may also assist our health institutions by allowing psychologists to delegate additional duties to formal interns.

**Implementation:** Component institutions that are interested in psychologist delegation to formal interns should work with System and Institution Offices of Governmental Relations to work with the Board of Examiners of Psychologists regarding the upcoming rulemaking.

**Effective:** September 1, 2015

Jason King

### [HB 3078](#) by Darby and Seliger

Relating to the creation of an advisory committee to recommend a uniform pre-nursing curriculum for undergraduate professional nursing programs offered by public institutions of higher education.

HB 3078 establishes the Uniform Pre-Nursing Curriculum Advisory Committee to make recommendations regarding the prerequisite courses required for an undergraduate professional nursing program and the content of those courses. The committee has statutorily prescribed membership that includes at least 12 institutions with professional nursing programs, with at least three representatives each from junior colleges, general academic teaching institutions, and health science centers. Those appointments are made by the Texas Higher Education Coordinating Board. The advisory committee is to report its recommendations to the legislatures not later than December 1, 2016.

**Impact:** The recommendations of the advisory committee may lead to a statutory pre-nursing curriculum for professional nursing programs, eliminating the traditional



practice in which the academic curriculum for such a program is established by the faculty of the respective institutions.

**Implementation:** No direct implementation responsibility on the part of UT System institutions. However, an institution with a nursing program may choose to proactively pursue appointment to the advisory committee to ensure representation of the institution's interests.

**Effective:** June 18, 2015

Steve Collins

[SB 1753](#) by Campbell and Davis

Relating to the identification requirements of certain health care providers associated with a hospital.

This bill amends Chapter 241 of the Health and Safety Code to require hospitals to use identification badges for licensed health care providers that list the type of license held by the provider (such as physician, dietician, licensed vocational nurse, nurse practitioner and other health care providers). This requirement is not required until September 1, 2019.

**Impact:** There is no direct impact on UTS or its health institutions as our hospitals are not licensed under Chapter 241. However, UTS hospitals generally meet chapter 241 requirements to the extent practical. The use of such badges can provide useful patient information and reduce patient misunderstanding and confusion.

**Implementation:** UTS health institutions should consider the extent to which they will voluntarily comply with this requirement.

**Effective:** September 1, 2015

Allene Evans

### **Pharmacists and Drugs**

[HB 21](#) by Kacal, et al. and Bettencourt

Relating to authorizing patients with certain terminal illnesses to access certain investigational drugs, biological products, and devices that are in clinical trials.

This bill, which has also been referred to as the "Right to Try Law," added chapter 489 to the Texas Health and Safety Code which:

- Creates a pathway for persons with "terminal illness," as defined by the chapter, to have access to an "investigational drug, biological product, or device" outside of a clinical trial if the drug, device, or product has successfully completed Phase One of

a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration and remains under investigation in the clinical trial.

- The patient is eligible for access to the investigational drug, biological product, or device if:
  - they have a terminal illness, attested to by their treating physician; and
  - the patient's physician:
    - in consultation with the patient, has considered all other treatment options approved by the US Food and Drug Administration and determined that those treatment options are unavailable or unlikely to prolong the patient's life; and
    - has recommended or prescribed in writing that the patient use a specific class of investigational drug, biological product, or device.
- The patient must sign a written informed consent. If the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian may provide the informed consent. The executive commission of Health and Human Services Commission (HHSC) may, but is not required to, adopt a form for the informed consent.
- The manufacturer of the investigational drug, biological product, or device may, but is not required to, make the investigational drug, product, or device available to patients who are eligible under the chapter if the patient provides the informed consent. If the manufacturer provides the drug, product, or device, it must do so without receiving compensation.
- The bill specifies that the chapter does not create a private or state cause of action against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device.
- Prohibits an official employee, or agent of the state from blocking or attempting to block an eligible patient's access to an investigational drug, biological product, or device under the chapter.
- The Texas Medical Board may not revoke, fail to renew, suspend, or take any action against a physician's license under Subchapter B, Chapter 164 of the Occupations Code based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological

product or device, provided the recommendations meet the medical standard of care.

**Impact:** This legislation creates a route under Texas law for patients at our UT hospitals and institutions to have access to investigational drugs, biological products, or devices outside of a clinical investigational trial provided that the requirements of Chapter 289 are met and the manufacturer makes the drug, product, or device available to the patient without compensation (See also “Implementation” section below).

Continued Compliance with Federal Law: For Administrators, Legal, and Healthcare Providers at UT hospitals and health institutions:

Although this new Texas Health and Safety Code chapter creates a path for access to investigational drugs, biological products, or devices under Texas law and without FDA approval or oversight, it does not nullify existing federal laws that currently apply to investigational drugs, biological products, and devices such as 21 C.F.R. Chapter I, Food and Drug Administration, Department of Health and Human Services. In fact, it is probable that this Texas law is preempted and nullified by the applicable federal laws.

Until the issue of which law controls is raised and decided in the court system, our UT hospitals, health institutions and healthcare providers should continue to comply with the applicable federal laws and regulations that apply to investigational drugs, biological products, and devices. Currently, federal law provides for access to investigational drugs outside of a clinical investigational trial through the “Expanded Access to Investigational Drugs for Treatment Use” at 21 C.F.R. §312.300 – §312.320.

Liability and TMB Provisions: For Legal and Healthcare Providers at UT hospitals and health institutions:

Although chapter 489 does not create a private or state cause of action against a person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, it does not eliminate or bar other common law or statutory causes of action that may be brought.

When strictly interpreted, the prohibition against the Texas Medical Board taking action against a physician’s license based solely on *recommending* the investigational drug, biological product, or device (provided the recommendation meets medical standard of care) would not necessarily apply when a physician *prescribes* the drug, product, or device. It may also be difficult to establish a standard of care when investigational drugs, products, or devices are involved. Finally, for physicians who are also licensed in other states, this provision would not prevent a licensing action against them in states other than Texas.

**Effective:** June 16, 2015

Bridget McKinley

**HB 751** by Zerwas, et al. and Kolkhorst

Relating to the prescription and pharmaceutical substitution of biological products; amending provisions subject to a criminal penalty.

HB 751 updates the Texas Pharmacy Act by allowing pharmacists to dispense less expensive safe biologic medications to patients by allowing substitution of an FDA approved interchangeable biologic for a prescribed brand name biologic. The pharmacy practice act has specific rules that must be followed to ensure safe generic substitution. The bill updates these rules to include a similar process to ensure safe biologic substitution. Biosimilars are expected on the market in 2015.

The bill allows only FDA interchangeable biologic products, as defined by the FDA, to be substituted without prior prescriber consent. The bill allows physicians to retain overall authority for prescriptions by using “dispense as written” on prescriptions in which specific biologic medications are necessary.

HB 751 requires communications between prescribing physicians and pharmacists to ensure an accurate record of the product dispensed to the patient. Use of existing pharmacist benefit management systems to communicate with physicians is permitted by the bill. Pharmacists are required to notify patients of any substitution in the same manner in which patients are currently notified of the use of a generic medication.

**Impact:** Pharmacists and physicians at UT System institutions will need to be aware that pharmacists may dispense interchangeable biologic medications in place of a prescribed biological medication. Pharmacists and physicians at UT System institutions will need to have increased communication and inform patients of the use of interchangeable biologic products. Additionally, pharmacy benefit management systems and other electronics systems will need to be updated to allow additional communication with physicians regarding the use of an interchangeable biological product.

**Implementation:** All pharmacists and physicians at UT System institutions will need to be aware of pharmacists’ ability to prescribe interchangeable biological products unless a physician’s prescription includes the terms “dispense as written”. Pharmacists at all UT System institutions will need to be trained regarding notifications to patients of the use of interchangeable products. All pharmacy benefit management systems and other electronic systems for communication between pharmacists and physicians will need to be updated to comply with the new requirements.

**Effective:** September 1, 2015

Timothy Boughal

**HB 1550** by Zerwas, et al. and Kolkhorst

Relating to the administration of epinephrine by pharmacists.

HB 1550 amends the Occupations Code to authorize a pharmacist to administer epinephrine through an auto-injector device. The bill requires the Texas State Board of Pharmacy (TSBP) to implement rules to allow a pharmacist to administer epinephrine with an auto-injector device to a patient in an emergency situation.

The bill authorizes a pharmacist to maintain, administer, and dispose of epinephrine auto-injectors in accordance with the TSBP's rules. Pharmacists are not authorized to seek remuneration for the administration of epinephrine, however they may recover the cost of the epinephrine injector device.

A pharmacist administering epinephrine is required to report the use of the epinephrine auto-injector to the patient's primary care physician.

The provisions of the bill are effective as of September 1, 2015 for the limited purpose of requiring the TSBP to adopt rules which may take effect on or before January 1, 2016.

**Impact:** Pharmacists at UT System institutions should be aware that they may administer epinephrine with an auto-injector to patients in emergent situations.

**Implementation:** All pharmacists at UT System institutions will need to be aware of pharmacists' ability to administer epinephrine with an auto-injector to patients in emergent situations. Pharmacists at all UT System institutions will need to be aware they may not seek payment for the administration, however they are entitled to reimbursement for the cost of the auto-injector. Pharmacists will need to have a system in place to notify the primary care physician for any patient to whom epinephrine is administered.

**Effective:** September 1, 2015

Timothy Boughal

[SB 339](#) by Eltife and Klick, et al.

Relating to the medical use of low-THC cannabis and the regulation of related organizations and individuals; requiring a dispensing organization to obtain a license to dispense low-THC cannabis and any employee of a dispensing organization to obtain a registration; authorizing fees.

This bill adds Chapter 169, entitled "Authority to Prescribe Low-THC Cannabis to Certain Patients for Compassionate Use," to the Texas Occupations Code, and Chapter 487 entitled "Texas Compassionate-Use Act" to the Texas Health and Safety Code, and amends sections in Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act).

It allows for the use, dispensing, and regulation of low-THC cannabis as follows:

#### Registry

The Texas Department of Public Safety (DPS) will establish and maintain a secure online compassionate-use registry.

Registry must contain the information required by §487.054 (such as the name and DOB of the patient, dosage prescribed, and means of administration).

Requires that DPS ensure that the registry: 1) is designed to prevent more than one physician from registering as the prescriber for a person; 2) is accessible to law enforcement agencies and dispensing organizations; and 3) allows a physician qualified to prescribe low-THC cannabis to input safety and efficacy data derived from treatment of their patients.

#### Prescribing Low-THC Cannabis

Allows the use of “low-THC” cannabis only for patients with "intractable epilepsy," as defined in the bill.

A physician must prescribe the low-THC cannabis.

Physicians are qualified to prescribe low-THC cannabis if they have dedicated a significant portion of clinical practice to the evaluation and treatment of epilepsy and have held certain board certifications in epilepsy, neurology, neurology with special qualifications in child neurology, or neurophysiology. If they meet those requirements they can prescribe the low-THC cannabis if:

- the patient is a permanent resident of Texas;
- the physician complies with the registration requirements of §169.004 (registration as a prescriber for the patient in the compassionate use registry maintained by DPS);
- the physician certifies to DPS that: 1) the patient was diagnosed with “intractable epilepsy”; 2) the risk of the use of low-THC cannabis by the patient is reasonable in light of the potential benefit to the patient; and 3) a second physician qualified to prescribe low-THC cannabis has concurred with the physician’s risk/ benefit opinion and their concurrence is noted in the patient’s medical record; 4) the physician is registered as the prescriber for the patient in the compassionate use registry; and 5) the physician maintains a patient treatment plan containing certain information required by the bill.

#### Dispensing low-THC cannabis

DPS will be responsible for issuing and renewing licenses to operate as a dispensing organization to dispense low-THC cannabis.

Sets out detailed procedures and requirements to be eligible to dispense low-THC cannabis and procedures for dispensing.

#### Exceptions to current laws

Texas Pharmacy Act does not apply to low-THC dispensing organizations.

Prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing any type of regulation that would prohibit the cultivation, production, dispensing, or possession of low-THC cannabis as authorized by this chapter.

Exempts persons engaged in the acquisition, possession, production, cultivation, delivery, or disposal or a raw material used in, or by-product created by, the production or cultivation of low-THC cannabis from certain marijuana offenses under conditions set out in this chapter.

Allows a licensed dispensing organization to possess the low-THC cannabis as a controlled substance without registering with the director of DPS.

**Impact:** This legislation seeks to create a legal route under Texas law for prescribing and dispensing of low-THC cannabis for patients of our UT Health Institutions and healthcare providers who have intractable epilepsy (but see “Implementation” section below).

**Implementation:** For Administrators, Legal, and Healthcare providers at UT Hospitals and Health Institutions:

Although this legislation may create a legal route under Texas law for prescribing and dispensing low-THC cannabis for patients with intractable epilepsy, it does not nullify current federal laws that apply in this area. Currently, the DEA still classifies cannabis (including low-THC cannabis and cannabidiol) as a schedule I substance under the Controlled Substances Act (CSA). It is not legal under federal law to prescribe a Schedule I substance, with the exception of FDA approved research programs. It is also not legal for a pharmacy to dispense a schedule I substance. One significant aspect of this Texas law is that a physician must “prescribe” the low-THC cannabis. This exposes physicians to potential federal criminal sanctions and actions. By contrast, doctors “recommend” medical marijuana or “certify” patients to use medical marijuana in the 23 states with comprehensive medical marijuana laws and the District of Columbia. Unlike “prescriptions,” there is legal precedent to support “recommendations” and “certifications” as being federally legal and protected under the First Amendment based on the Ninth Circuit case of *Contant v. Walters*, 309 F. 3d 629 (2002). During the legislative session there were proposed amendments to the bill which would have changed the physician “prescription” requirement to a physician “recommendation” requirement, but they were not adopted.

In addition to federal action, physicians who prescribe low-THC cannabis under this statute may be vulnerable to other types of actions. Since this statute authorizes physicians to prescribe low-THC cannabis if they comply with the statutory requirements, it is reasonable to conclude that Texas Medical Board (TMB) would not take licensing or disciplinary action against a physician based solely on prescribing low-THC cannabis if they comply with the statute; however, the statute does not contain a provision like that in HB 21 (“Right to Try” law) which expressly prohibits TMB action. Therefore, it cannot

be conclusively said that the TMB would not institute an action against a physician who prescribes low-THC cannabis. Also, this law would not necessarily protect physicians who are licensed in multiple states against a licensing action in another state. In any event, the TMB can still institute actions that are not based solely on the fact that low-THC cannabis was prescribed. Finally, while the TMB may not institute a licensing or disciplinary action, it is possible that prescribing low-THC cannabis will create complications with a physician's credentialing or hospital privileges.

Under this current federal law, UT hospitals, health institutions and healthcare providers should continue to comply with the applicable federal laws and regulations that apply to cannabis and other schedule I substances.

**Effective:** June 1, 2015

Bridget McKinley

**SB 195** by Schwertner and Crownover

Relating to prescriptions for certain controlled substances, access to information about those prescriptions, and the duties of prescribers and other entities registered with the Federal Drug Enforcement Administration; authorizing fees.

SB 195 amends the Government Code, to restructure the prescribing, filling, and administration of prescription drugs under the oversight of the Texas State Board of Pharmacy (TSBP). The bill moves oversight of the Texas Prescription Program from the Department of Public Safety (DPS) to the TSBP. Transfer of oversight is required by September 1, 2016.

The bill repeals the requirement that a person register with DPS to manufacture, distribute, analyze, or dispense a controlled substance or conduct research with a controlled substance under the Texas Controlled Substances Act. The bill further amends the Health and Safety Code, including provisions amended by SB 219, Acts of the 84th Legislature, Regular Session, 2015, to require a person to be registered with or exempt from registration with the Federal Drug Enforcement Administration under the federal Controlled Substances Act to manufacture, distribute, prescribe, possess, analyze, dispense, or conduct research with a controlled substance under the Texas Controlled Substances Act. The bill repeals a provision requiring the use of an order form to distribute or order a Schedule I or II substance to or from another registrant.

SB 195 directs the TSBP to adopt all rules necessary for the administration of the Controlled Substances Act, by March 1, 2016; however the bill specifies that rules previously in effect remain in effect until amended or replaced.

The bill allows access to specified information regarding prescriptions to an investigator for the Texas Optometry Board, an authorized employee of the Texas State Board of Pharmacy, and includes a medical examiner conducting an investigation and one or more states or an association of states with which the Texas State Board of Pharmacy has an interoperability agreement among the persons and organizations authorized to have access



to the information regarding prescriptions of certain controlled substances. A provision authorizing certain law enforcement or prosecutorial officials, pharmacists, and health care practitioners to access the information regarding prescriptions of certain controlled substances remove the condition that proper need has been shown from the bill. Access of information is conditioned on certain pharmacists and health care professionals having the authority to access such information under the federal Health Insurance Portability and Accountability Act of 1996 and rules adopted under that act. The bill authorizes a medical examiner conducting an investigation to access the information through a health information exchange, subject to proper security measures. DPS is required to have unrestricted access at all times regarding prescriptions of certain controlled substances.

The TSBP is entitled under the bill to enter into interoperability agreements with other states or associations of states to access prescription information. The bill provides for the TSBP to implement fees to cover the costs of the programmatic changes.

**Impact:** The TSBP will assume oversight of the prescription of controlled substances by health care providers at UT System institutions. New rules and structures will be adopted by the TSBP to manage the oversight of prescriptions in Texas which will impact all controlled substances prescribed within the state of Texas. Additional fees will be implemented by the TSBP for the costs of administering the prescription program.

**Implementation:** Currently, the change in oversight of prescription drugs does not require implementation by UT System institutions; however all health care providers should be aware of ongoing restructuring and upcoming adoption of new rules regarding the processes for the manufacture, distribution, analysis, and dispensing of prescription drugs in the state of Texas. UT System institutions should be prepared for the use of additional fees by the TSBP to cover the cost of administering the oversight of prescription drugs in the state of Texas.

**Effective:** September 1, 2016

Timothy Boughal

**SB 460** by Schwertner and Crownover

Relating to the licensing and regulation of pharmacists and pharmacies.

S.B. 460 amends the Health and Safety Code to authorize a pharmacist, in the event of a natural or manmade disaster, to dispense not more than a 30-day supply of a dangerous drug without the authorization of the prescribing practitioner if failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering, the natural or manmade disaster prohibits the pharmacist from being able to contact the practitioner, the governor has declared a state of disaster, and the Texas State Board of Pharmacy (TSBP), through the executive director, has notified pharmacies in Texas that pharmacists may dispense up to a 30-day supply of a dangerous drug. The bill exempts the prescribing practitioner from liability for an act or omission by a pharmacist in dispensing a dangerous drug in the event of a natural or manmade disaster.

The TSBP is authorized to provide the required notice of the board's contact information for the purpose of directing complaints to the board on an electronic messaging system. The bill authorizes the TSBP to enter and inspect a facility relative to financial records relating to the facility's operation, but restricts the board's inspection of those records to an inspection in the course of the investigation of a specific complaint and to the records related to the specific complaint. S.B. 460 requires a pharmacist to provide to the board, on request, records of the pharmacist's practice that occurs outside of a pharmacy and requires the pharmacist to provide the records at a time specified by board rule.

The bill increases from two to four the maximum number of times an applicant for a license to practice pharmacy may retake the licensing examination subsequent to failure on the applicant's first attempt, and increases from three to five the number of failed examination attempts that triggers the requirement that the applicant provide documentation showing completion of additional college course work in the examination subject area the applicant failed in order to be allowed to retake the examination.

The bill revises the required contents of a completed pharmacy license application by requiring proof that no owner of the pharmacy for which the application is made has held a pharmacist license in Texas or another state, if applicable, that has been restricted, suspended, revoked, or surrendered for any reason, and by specifying the type of license to which certain required contents must be in reference.

S.B. 460 reduces from one year to 91 days the minimum amount of time that a pharmacy's license can be expired before the pharmacy is prohibited from renewing the license and repeals a provision authorizing a pharmacy whose license has been expired for more than 90 days, but less than one year, to renew the expired license by paying a renewal fee to the board. The bill makes statutory provisions relating to the required practitioner-patient relationship applicable to all prescriptions, regardless of the type of consultation on which the prescription is issued or the type of substance that is prescribed.

The bill changes the deadline for a pharmacy to report in writing to the board a change of location of the pharmacy from not later than the 10th day after the date of the change of location to not later than the 30th day before the date of the change of location and makes this deadline change applicable only to a pharmacy that changes location on or after October 1, 2015.

The bill authorizes the board to discipline an applicant, or the holder of a pharmacy license, if the board finds that the applicant or license holder has waived, discounted, reduced, or offered to waive, discount, or reduce, a patient copayment or deductible for a compounded drug in the absence of a legitimate, documented financial hardship of the patient, or evidence of a good faith effort to collect the copayment or deductible from the patient.

S.B. 460 removes the prohibition against the extension of a board investigation of a facility to financial data, sales data other than shipment data, or pricing data, with certain exceptions, and makes such data obtained by the board during an inspection of a facility confidential and not subject to disclosure under state public information law.

**Impact:** In the event of a natural disaster, pharmacists at UT System institutions are entitled to dispense up to a 30 day supply of dangerous drugs without the authorization of a prescribing physician. Changes in pharmacy locations must be submitted to the TSBP within 30 days. Pharmacies at UT System institutions may not waive or discount co-pays or deductibles for compounded drugs. The TSBP may also enter UT System institutions' pharmacies to conduct financial inspections.

**Implementation:** Pharmacies at UT System institutions will need to adopt rules regarding the necessary conditions for pharmacists to prescribe up to a 30 day supply of a dangerous drug without practitioner consent in the event of a natural disaster. Systems should be implemented to ensure no waiver or discount of a co-pay or deductible occurs for a compounded drug in the absence of a legitimate financial hardship. Pharmacies at UT System institutions should be prepared for the TSBP financial investigations in the event of a complaint.

**Effective:** September 1, 2015

Timothy Boughal

[SB 1462](#) by West and Johnson, et al.

Relating to the prescription, administration, and possession of certain opioid antagonists for the treatment of suspected opioid overdoses.

S.B. 1462 amends the Health and Safety Code to authorize a prescriber, directly or by standing order, to prescribe an opioid antagonist to a person at risk of experiencing an opioid related drug overdose. The bill also allows prescription to a family member, friend or other person in a position to assist the at-risk individual. The bill establishes that a prescription issued for an opioid antagonist as authorized by the bill's provisions is considered issued for a legitimate medical purpose in the usual course of professional practice and that a prescriber who, acting in good faith with reasonable care, prescribes or does not prescribe an opioid antagonist is not subject to any criminal or civil liability or any professional disciplinary action for prescribing or failing to prescribe the opioid antagonist or, if the prescriber chooses to prescribe an opioid antagonist, for any outcome resulting from the eventual administration of the opioid antagonist.

The bill authorizes a pharmacist to dispense an opioid antagonist under a valid prescription to a person at risk of experiencing an opioid-related drug overdose or to a family member, friend, or other person in a position to assist such a person. A prescription filled under such circumstances is considered as filled for a legitimate medical purpose in the usual course of professional practice and a pharmacist who, acting in good faith and with reasonable care, dispenses or does not dispense an opioid antagonist under a valid prescription is not subject to any criminal or civil liability or any professional disciplinary action for dispensing or failing to dispense the opioid antagonist. The bill authorizes emergency services personnel to administer an opioid antagonist to a person who appears to be suffering an opioid-related drug overdose, as clinically indicated. The bill's provisions

expressly prevail over another law to the extent of a conflict between the bill's provisions and that other law.

**Impact:** Physicians and pharmacists at UT System institutions may prescribe and fill prescriptions of opioid antagonists for at risk patients as well as their family, friends, and persons in a position to assist the person.

**Implementation:** UT System physicians and pharmacists should be aware of the new ability to prescribe and fill prescriptions for opioid antagonists and develop policies allowing for proper prescribing of such substances.

**Effective:** September 1, 2015

Timothy Boughal

### Medical Services

[HB 21](#) by Kacal, et al. and Bettencourt

Relating to authorizing patients with certain terminal illnesses to access certain investigational drugs, biological products, and devices that are in clinical trials.

This bill, which has also been referred to as the “Right to Try Law,” added chapter 489 to the Texas Health and Safety Code which:

- Creates a pathway for persons with “terminal illness,” as defined by the chapter, to have access to an “investigational drug, biological product, or device” outside of a clinical trial if the drug, device, or product has successfully completed Phase One of a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration and remains under investigation in the clinical trial.
- The patient is eligible for access to the investigational drug, biological product, or device if:
  - they have a terminal illness, attested to by their treating physician; and
  - the patient’s physician:
    - in consultation with the patient, has considered all other treatment options approved by the US Food and Drug Administration and determined that those treatment options are unavailable or unlikely to prolong the patient’s life; and
    - has recommended or prescribed in writing that the patient use a specific class of investigational drug, biological product, or device.
- The patient must sign a written informed consent. If the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian may

provide the informed consent. The executive commission of Health and Human Services Commission (HHSC) may, but is not required to, adopt a form for the informed consent.

- The manufacturer of the investigational drug, biological product, or device may, but is not required to, make the investigational drug, product, or device available to patients who are eligible under the chapter if the patient provides the informed consent. If the manufacturer provides the drug, product, or device, it must do so without receiving compensation.
- The bill specifies that the chapter does not create a private or state cause of action against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device.
- Prohibits an official employee, or agent of the state from blocking or attempting to block an eligible patient's access to an investigational drug, biological product, or device under the chapter.
- The Texas Medical Board may not revoke, fail to renew, suspend, or take any action against a physician's license under Subchapter B, Chapter 164 of the Occupations Code based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device, provided the recommendations meet the medical standard of care.

**Impact:** This legislation creates a route under Texas law for patients at our UT hospitals and institutions to have access to investigational drugs, biological products, or devices outside of a clinical investigational trial provided that the requirements of Chapter 289 are met and the manufacturer makes the drug, product, or device available to the patient without compensation (See also "Implementation" section below).

Continued Compliance with Federal Law: For Administrators, Legal, and Healthcare Providers at UT hospitals and health institutions:

Although this new Texas Health and Safety Code chapter creates a path for access to investigational drugs, biological products, or devices under Texas law and without FDA approval or oversight, it does not nullify existing federal laws that currently apply to investigational drugs, biological products, and devices such as 21 C.F.R. Chapter I, Food and Drug Administration, Department of Health and Human Services. In fact, it is probable that this Texas law is preempted and nullified by the applicable federal laws.

Until the issue of which law controls is raised and decided in the court system, our UT hospitals, health institutions and healthcare providers should continue to comply with the applicable federal laws and regulations that apply to investigational drugs, biological products, and devices. Currently, federal law provides for access to investigational drugs

outside of a clinical investigational trial through the “Expanded Access to Investigational Drugs for Treatment Use” at 21 C.F.R. §312.300 – §312.320.

Liability and TMB Provisions: For Legal and Healthcare Providers at UT hospitals and health institutions:

Although chapter 489 does not create a private or state cause of action against a person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, it does not eliminate or bar other common law or statutory causes of action that may be brought.

When strictly interpreted, the prohibition against the Texas Medical Board taking action against a physician’s license based solely on *recommending* the investigational drug, biological product, or device (provided the recommendation meets medical standard of care) would not necessarily apply when a physician *prescribes* the drug, product, or device. It may also be difficult to establish a standard of care when investigational drugs, products, or devices are involved. Finally, for physicians who are also licensed in other states, this provision would not prevent a licensing action against them in states other than Texas.

**Effective:** June 16, 2015

Bridget McKinley

[HB 177](#) by Zedler, et al. and Bettencourt

Relating to the research, collection, and use of adult stem cells.

#### I. Adult Stem Cell Research Program

This bill amends Subtitle H, Title 3, of the Texas Education Code (Research in Higher Education) by adding a new chapter 156 that creates an Adult Stem Cell Research Program (Program), and is controlled by an Adult Stem Cell Research Coordinating Board (Board) which establishes and oversees the Texas Adult Stem Cell Research Consortium (Consortium).

#### Adult Stem Cell Research Coordinating Board

- The Board is composed of seven (7) members.
- The Governor will appoint three (3) of the members, with the advice and consent of the senate, all of whom must be interested persons. One must represent an institution of higher education, and another must be a representative of an advocacy organization representing patients who was appointed to that position by the governor with the advice and consent of the senate.

- The Lieutenant Governor and the Speaker of the House of Representatives will each appoint two (2) members who are interested persons.
- The governor shall designate the presiding officer of the Board. The presiding officer must be appointed to the Board by the governor and represent an institution of higher education. The presiding officer serves in that capacity at the will of the governor.
- The Board members serve staggered six (6) year terms.
- A person may not be a Board member if they have a conflict of interest as set out in the proposed statute, or if they are required to register as a lobbyist.

#### Texas Adult Stem Cell Research Consortium

- The Consortium is composed of participating institutions of higher education and businesses that: 1) accept public money for adult stem cell research; or 2) otherwise agree to participate in the consortium.
- The Board will establish regulatory standards and oversight bodies for adult stem cell research conducted by Consortium members and the development of facilities for consortium members conducting adult stem cell research.

#### Board Administration of the Program

- The Board shall administer the Program to: 1) make grants and loans for consortium members for adult stem cell research projects to develop therapies, protocols, or medical procedures involving adult stem cells; 2) the development of facilities to be used solely for adult stem cell research projects; and 3) commercialization of products or technology involving adult stem cell research and treatments.
- The Board will establish appropriate regulatory standards and oversight bodies for adult stem cell research conducted by Consortium members and for the development of facilities for consortium members conducting adult stem cell research.
- The Board shall develop priorities, procedures, and guidelines for providing grants and loans for research projects conducted by Consortium members. Grants and loans must be made on a competitive peer review basis.
- The Board shall also report its activities annually to the Texas Higher Education Coordinating Board, Governor, Lieutenant Governor, Speaker of the House of Representatives, and the presiding officer of legislative standing committees with jurisdiction over higher education.

#### Funding

The consortium shall solicit, and the board may accept public or private gifts, grants, or donations. The program may not be funded by legislative appropriations.

### Timing of Action

- Board members shall be appointed as soon as practicable after the bill takes effect on September 1, 2015.
- On or before September 1, 2016, the Board shall submit its first report of its activities and recommendations.

## II. Adult Stem Cell Provisions

### Blood Banks

This bill also amends Chapter 162 of the Health and Safety Code (Blood Banks and Donation of Blood) by adding a definition of “adult stem cell” at section 162.001 and adding a new section, 162.020, which provides that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents in writing.

### Use of Adult Stem Cells

This bill also amends Chapter 1003 of the Health and Safety Code to:

- Change the title to “Adult Stem Cells” (previously titled “Autologous Stem Cell Bank for Recipients of Blood and Tissue Components Who are Live Human Donors”).
- Specifies *general requirements* for a *person* using adult stem cells in the provision of health care:
  - must use adult stem cells that are properly manufactured and stored; and
  - may only use them in a clinical trial approved by the U.S. Food and Drug Administration (FDA).
- Adds the following *additional requirements* for use of adult stem cells in *hospitals*:
  - a physician providing the services at the hospital determines that the use of adult stem cells for the procedure is appropriate;
  - the patient consents in writing to the use;
  - the general requirements are met;



- the manufacturing process for the adult stem cells satisfy current good manufacturing practices adopted by the FDA; and
- appropriate state and federal guidelines on the use of adult stem cells are followed.

**Impact:**

Adult Stem Cell Research Consortium: UT System Institutions of higher education that accept public money for adult stem cell research will automatically be part of the Adult Stem Cell Research Consortium under this bill. They will need to keep apprised on any regulatory standards that are promulgated by the Adult Stem Cell Research Coordinating Board (Board), and any oversight bodies that the Board creates, since as a Consortium member they will be subject to those standards and regulation by the Board and any oversight body.

Adult Stem Cell Use: UT System Institutions and providers who use adult stem cells in clinical trials will need to comply with the new stem cell use requirements in Chapter 1003 of the Health and Safety Code, as well as other applicable Federal, state, local, and institutional rules and regulations that apply to adult stem cell use.

UT System institutions that operate blood banks may now be able to collect adult stem cells from the blood that it obtains with proper written donor consent.

**Implementation:** Our UT System Institutions, possibly through their Department of Institutional Research (DIR) or equivalent department, will need to determine whether they are currently participating in adult stem cell clinical trials and ensure that they are complying with the new requirements in this bill relating to adult stem cell use by September 1, 2015. Through participation in the clinical trial and existing hospital policies and Institutional Review Board (IRB) review, all of these new requirements have probably already been satisfied. Our institutions will also want to determine whether they currently, or in the future plan to, receive public money for adult stem cell research since institutions that receive such money are automatically members of the Consortium. Institutions that are members of the Consortium will want to monitor the implementation of this chapter, such as the appointment of Board members and the creation of any regulatory standards or oversight bodies by the Board since they will be subject to those standards and regulation by the Board and any oversight body. The DIR or equivalent may be the most appropriate department to monitor these developments and ensure compliance with any future standards created by the Board.

**Effective:** September 1, 2015

Bridget McKinley

[HB 3074](#) by Springer, et al. and Schwertner, et al.

Relating to the provision of artificially administered nutrition and hydration and life-sustaining treatment.

This bill:

- Establishes a requirement that when a patient (or person authorized to act on their behalf) is requesting life-sustaining treatment that the attending physician and an ethics or medical committee have determined to be medically inappropriate, the patient be given available life-sustaining treatment pending the patient's transfer to a physician or facility willing to comply with the request for life-sustaining treatment (section 166.046(e)).
  - "Life-sustaining treatment" includes "artificially administered nutrition and hydration" (both terms defined in the bill).
- Clarifies that withholding or withdrawing pain management medication, medical procedures necessary to provide comfort, or any other health care provided to alleviate a patient's pain is not authorized under section 166.046(e) of the Health and Safety Code ("Procedures if Not Effectuating a Directive or Treatment Decision").
- Specifies that the attending physician, health care facility, and any other provider involved in the patient's care is not required to provide life-sustaining treatment after a specified time period and after certain procedures set out in section 166.046 are followed.
- Creates an exception to this provision which requires the provision of "artificially administered nutrition and hydration" *unless* such provision would: a) hasten the patient's death; b) be medically contraindicated such that it would seriously exacerbate life-threatening medical problems; c) result in substantial irremedial physical pain; d) be medically ineffective in prolonging life; or e) be contrary to the patient or surrogate's clearly documented desire.
- Provides that in addition to already established procedures under section 166.046 of the Health and Safety Code that apply to the scenario of when a patient (or person responsible for the health care decision) has made a treatment or directive decision that a physician refuses to honor, the patient, or their representative, is entitled to receive: a) a copy of the patient's medical records related to the treatment received in the facility for the period of the patient's current admission or the preceding 30 days (whichever is less); and b) a copy of all of the patient's reasonably available diagnostic results and reports related to the portion of the medical records that are provided under this section.
- Makes clarification changes to the Advance Directives provisions at sections 166.003 (witnesses), 166.032 (Written Directive by Competent Adult; Notice to Physicians), and to the Statements Explaining Patient's Right to Transfer at section 166.052 of the Health and Safety Code.
- The provisions of this bill only apply to a review, consultation, disagreement, or other action relating to a health care or treatment decision made on or after **April 1, 2016**.

- The executive commissioner of the Health and Human Services Commission shall adopt all rules necessary to implement the bill by **March 1, 2016**.

**Impact:** In addition to educating our health care providers about these new provisions, we will need to update any existing forms and paperwork relating to Advance Directives and Statements Explaining a Patient's Right to Transfer by April 1, 2016 so they are available when the provisions of this bill relating to life-sustaining treatment, and modifications to the information that must be provided to the patient or person responsible for the health care decisions for the patient, go into effect. The update may be most appropriately handled through the patient records department.

**Implementation:** In addition to educating our health care providers about these new provisions, we will need to update any existing forms and paperwork relating to Advance Directives and Statements Explaining a Patient's Right to Transfer by April 1, 2016 so they are available when the provisions of this bill relating to life-sustaining treatment, and modifications to the information that must be provided to the patient or person responsible for the health care decisions for the patient, go into effect. The update may be most appropriately handled through the patient records department.

**Effective:** April 1, 2016

Bridget McKinley

[HB 3374](#) by Morrison, et. al. and Lucio et. al.

Relating to information regarding Down syndrome.

This bill amends Chapter 161, Health and Safety Code, by adding Subchapter W, and requires that:

- The Department of State Health Services (DSHS) shall make information regarding Down syndrome available on its website.
  - the information must address: 1) physical, developmental, educational and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development for individuals with Down syndrome; 2) information regarding available treatment options for individuals with Down syndrome; 3) contact information for national and local Down syndrome education and support programs, services, and organizations, including organizations in Houston, Dallas, San Antonio, and Austin, and information hotlines, resource centers, and clearinghouses; and 4) any other information required by DSHS.
  - the information provided by the Department must be current, evidence-based information that: 1) has been reviewed by medical experts and local Down syndrome organizations; and 2) does not explicitly or implicitly present

pregnancy termination as an option when a prenatal test indicates the unborn child has Down syndrome.

- DSHS shall make the information available on its internet website in a format that can be easily printed. It may also provide the information in writing to health care providers if it determines that providing written information is cost-effective.
- Under §161.653, a Health Care Provider who administers or causes to be administered a test for Down syndrome or who initially diagnoses a child with Down syndrome *shall* provide the information DSHS is required to make available on its website to:  
1) expectant parents who receive a prenatal test result indicating a probability or diagnosis that the unborn child has Down Syndrome; or 2) a parent of a child who receives either a test result indicating a probability or diagnosis that the child has Down Syndrome or a diagnosis of Down syndrome.
  - The Health Care Provider may also provide additional information about Down Syndrome that is current and evidence-based and has been reviewed by medical experts and National Down syndrome organizations.
  - Health Care Provider under this chapter has the same meaning assigned by §34.001 of the Health and Safety Code (an individual or facility licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice, including a physician, hospital or birthing center) and also includes a genetic counselor.
  - Notwithstanding any other law, §161.653 does not impose a standard of care or create an obligation or duty that provides a basis for a cause of action against a health care provider.
  - A health care provider may not be held civilly or criminally liable for failing to provide information as required by §161.653.

**Impact:** Our UT System Health Institutions and health care providers, including genetic counselors, who administer or cause to be administered a test for Down syndrome *or* who initially diagnose a child with Down syndrome must provide parents or expectant parents with the DSHS information as required by the statute.

**Implementation:** Obstetrics and Gynecology, Pediatrics, Genetics and other departments or providers that would be involved in the administration of, or recommendation for, Down syndrome testing or who would be involved in the diagnosis of Down syndrome need to be educated about these new requirements possibly through the head of those departments. Additionally, the departments involved should determine a uniform manner in which the required information will be provided to the parents or expectant parents.

**Effective:** September 1, 2015

**SB 1128** by Zaffirini and Davis

Relating to certain diagnostic testing during pregnancy.

This bill amends section 81.090(a-1), (c), (c-1) and (c-2) of the Health and Safety Code, which addresses diagnostic testing during pregnancy and after birth, to align syphilis testing during pregnancy with testing requirements for HIV, requiring syphilis testing during the first and third trimesters of pregnancy. More specifically:

- Subsection (a-1) is amended to add a sample for syphilis infection to the samples a physician, or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant, is required to submit for diagnostic testing during the third trimester. It also now specifies that the testing is not to be done earlier than the 28<sup>th</sup> week of pregnancy.
- Subsection (c) is amended to eliminate the requirement that a physician, or other person in attendance at delivery, submit a sample from the mother for syphilis testing on admission for delivery (but still retains requirement for hepatitis B sample and testing on admission).
- Subsection (c-1) is amended to add sampling and testing for syphilis to the existing HIV sampling and testing a physician, or other person in attendance at the delivery, is required to implement if they do not find the results from the diagnostic test for syphilis and HIV infection performed under (a-1). Expedited processing is only required for the HIV test.
- Subsection (c-2) is amended to require that if the physician, or other person responsible for the child, does not find the results from a diagnostic test for syphilis and HIV under (a-1) in the mother's medical records, and the diagnostic tests for syphilis and HIV infection were not performed before delivery under (c-1), they must take or cause to be taken an appropriate specimen from the newborn child less than two hours after birth and submit it for syphilis and HIV testing.

The bill also adds a congenital syphilis reporting requirement for that the Department of State Health Services.

**Impact:** Our UT Health Institutions and healthcare providers that are involved in prenatal care, labor and delivery, pediatrics and neonatology, and our laboratories will need to be made aware of these new testing requirements for syphilis and the requirement that the third trimester testing not be done before the 28<sup>th</sup> week.

**Implementation:** Obstetrics and gynecology, neonatology, pediatrics, and other departments or healthcare providers that would be involved in prenatal care, labor and delivery, and the care of newborns need to be educated about these new requirements,

possibly through the head of those departments. Our laboratories should also be advised of this testing change.

**Effective:** September 1, 2015

Bridget McKinley

[SB 1881](#) by Zaffirini and Peña, et. al.

Relating to authorizing supported decision-making agreements for certain adults with disabilities.

This bill added Chapter 1357 to the Estates Code which authorizes an adult with a disability to voluntarily enter into a supported decision-making agreement with a supporter under which the adult with a disability authorizes the supporter to do any or all of the following:

- provide supported decision-making without making those decisions on behalf of the adult with a disability;
- assist the adult in accessing, collecting, and obtaining information that is relevant to a given life decision from any person;
- assist the adult with a disability in understanding such information; and
- assist the adult in communicating the adult's decisions to appropriate persons.
- Under the supported decision-making agreement, the supporter is authorized to assist in accessing, collecting, or obtaining information that is relevant to the decision authorized under the agreement.

A person who receives an original or copy of a supported decision-making agreement that substantially complies with the form included at section 137.056 *shall* rely on the agreement. The form contains a provision identifying whether a Health Insurance Portability Act (HIPAA) release is attached.

If a person who receives a copy of a supported decision-making agreement or who is aware of the existence of such an agreement has cause to believe that the adult with the disability has is being abused, neglected or exploited by the supporter, they *shall* report to the Department of Family and Protective Services.

**Impact:** Our UT Health Institutions and healthcare providers may be presented with these supported decision-making agreements in conjunction with a request by the supporter for medical records or medical information relating to the adult with a disability. They will need to be aware of the requirement that the agreement must be in substantially the same form as that set out in the chapter and that a HIPAA compliant release must be attached or provided in order for the supporter to have access to the HIPAA protected information. They will also need to be aware of the duty to report potential abuse, neglect or exploitation

that is in effect once they receive a copy of or are aware of the existence of the supported decision-making agreement.

**Implementation:** There is no active implementation that needs to occur for this legislation. The Medical Records Departments should be provided with this information so they are aware that the designated supporters may be requesting records and our institutions may want to consider adding a section in the patient medical record to indicate whether a supported decision-making agreement exists.

**Effective:** June 19, 2015

Bridget McKinley

### **Correctional Managed Care**

[\*\*HB 1083\*\*](#) by Márquez, et al. and Whitmire, et al.

Relating to a mental health assessment of certain inmates of the Texas Department of Criminal Justice.

HB 1083 requires that mental health assessments be conducted for an inmate prior to being confined in administrative segregation. If medical staff determine an inmate's mental health precludes assignment to administrative segregation, the Texas Department of Criminal Justice would have to seek alternative assignment of the inmate.

**Impact:** Medical staff from UT System institutions providing medical care in Texas Department of Criminal Justice Facilities will be required to perform mental health assessments for inmates prior to confinement in administrative segregation.

**Implementation:** UT System health care providers and medical staff providing care to inmates, specifically University of Texas Medical Branch Correctional Managed Care providers, will need to develop a system to conduct a mental health assessment for any inmate before the inmate is confined to administrative segregation.

**Effective:** September 1, 2015

Timothy Boughal

[\*\*HB 1595\*\*](#) by Murr, et al. and Whitmire

Relating to testing certain defendants or confined persons for communicable diseases.

HB 1595 amends the Code of Criminal Procedure to require defendants or confined persons in county and Texas Department of Criminal Justice facilities to be tested for communicable diseases if a peace officer comes into contact with the person's bodily fluids during a judicial proceeding or while the defendant is confined after conviction or adjudication resulting from arrest. The bill requires a court to order testing for

communicable disease of any defendant, confined person, or inmate if they will not voluntarily agree to undergo testing.

Test results for communicable diseases of a defendant, inmate, or confined person must be shared with the county health authority which will share the results with the person potentially affected.

**Impact:** Health care providers at UT System institutions should be aware that they may be required to conduct tests for communicable diseases upon a defendant, inmate, or confined person whose bodily fluids have come into contact with a peace officer or officer of the court. Health care providers at UT System institutions should be further aware that the result of such tests are required to be reported to the county health authority which will share the results with persons potentially affected.

**Implementation:** All health care providers at UT System institutions will need to be aware that they may be required to conduct tests for communicable diseases upon a defendant, inmate, or confined person whose bodily fluids have come into contact with a peace officer or officer of the court. Systems will need to be developed allowing the reporting of tests to local county health authorities.

**Effective:** June 17, 2015

Timothy Boughal

[HB 1908](#) by Naishtat and Garcia

Relating to the continuity of care for offenders with mental impairments.

HB 1908 amends the Health and Safety Code to require, subject to available resources, that each offender with a mental impairment is identified and qualified for continuity of care by the Texas Correctional Office on Offender with Medical or Mental Impairments for persons released on probation or parole. The bill clarifies eligibility criteria for mental impairments involving significant functional impairment including major depressive disorder, post-traumatic stress disorder, schizoaffective disorder, psychotic disorder, anxiety disorder, delusional disorder, or other severe diagnosed mental health disorder.

**Impact:** Health care providers at UT System institutions should be aware of the requirement that offenders be qualified for continuity of care for severe mental disorders.

**Implementation:** All health care providers at UT System institutions will need to be aware that they may be required to provide care to offenders qualified for continuity for a severe mental disorder while on probation or parole.

**Effective:** September 1, 2015

Timothy Boughal



## Medical Records

[HB 764](#) by King, et al. and Rodríguez

Relating to the use, collection, and security of health care data collected by the Department of State Health Services

This bill places limitations on the Texas Health Care Information Council (Council), which is operated by the Texas Department of State Health Services, and is charged with developing a statewide health care data collection system to collect health care charges, utilization, provider quality data, and outcome data to facilitate the promotion and accessibility of effective good quality health care.

The bill requires health care providers at hospitals and health care facilities that report data to the Council to provide notices to all patients whose data is reported about the data reporting process. The Council will create and post the required notices on the Council's website. Administrators at System health science institutions that operate hospitals and facilities that provide health care will need to develop processes for downloading the promulgated notices and ensuring that the notice is provided to all patients.

The bill also requires the Department of State Health Services (DSHS) to create a form for use by providers who collect data from patients to provide notice to patients whose data is subject to collection by the Council and provides information about which agency or entity receives the data as contact person at the agency or entity for patients with questions about the data collection.

**Impact:** Providers at System health science institutions that operate hospitals and facilities who provide health care services that are required to report data to the Council will be required to provide the patient notices required by the bill and to answer patients' questions generated by the notice.

**Implementation:** Administrators at System health science institutions that operate hospitals and facilities which provide health care will need to develop processes for downloading the promulgated notices and ensuring that the notice is provided to all patients. Staff training may be required.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 1779](#) by Murr and Uresti

Relating to the disclosure in certain judicial proceedings of confidential communications between a physician and a patient and confidential patient records.

HB 1799 amends Section 159.003(a) of the Occupations Code to clarify that a physician may release confidential patient information in judicial proceedings in which the patient is a party when the disclosure is requested by subpoena. When the patient is not a party,

release is permitted in compliance with a court order only and not by subpoena. These changes align the confidentiality rules for physicians with those governing hospitals.

**Impact:** To the extent that UT health institutions' physicians are subjected to subpoena or court order to disclose patient information, this amendment clarifies these confidentiality exceptions.

**Implementation:** Administrative offices should update procedures for releasing information in court proceedings.

**Effective:** September 1, 2015

Allene Evans

[HB 3074](#) by Springer, et al. and Schwertner, et al.

Relating to the provision of artificially administered nutrition and hydration and life-sustaining treatment.

This bill:

- Establishes a requirement that when a patient (or person authorized to act on their behalf) is requesting life-sustaining treatment that the attending physician and an ethics or medical committee have determined to be medically inappropriate, the patient be given available life-sustaining treatment pending the patient's transfer to a physician or facility willing to comply with the request for life-sustaining treatment (section 166.046(e)).
  - "Life-sustaining treatment" includes "artificially administered nutrition and hydration" (both terms defined in the bill).
- Clarifies that withholding or withdrawing pain management medication, medical procedures necessary to provide comfort, or any other health care provided to alleviate a patient's pain is not authorized under section 166.046(e) of the Health and Safety Code ("Procedures if Not Effectuating a Directive or Treatment Decision").
- Specifies that the attending physician, health care facility, and any other provider involved in the patient's care is not required to provide life-sustaining treatment after a specified time period and after certain procedures set out in section 166.046 are followed.
- Creates an exception to this provision which requires the provision of "artificially administered nutrition and hydration" *unless* such provision would: a) hasten the patient's death; b) be medically contraindicated such that it would seriously exacerbate life-threatening medical problems; c) result in substantial irremedial physical pain; d) be medically ineffective in prolonging life; or e) be contrary to the patient or surrogate's clearly documented desire.

- Provides that in addition to already established procedures under section 166.046 of the Health and Safety Code that apply to the scenario of when a patient (or person responsible for the health care decision) has made a treatment or directive decision that a physician refuses to honor, the patient, or their representative, is entitled to receive: a) a copy of the patient's medical records related to the treatment received in the facility for the period of the patient's current admission or the preceding 30 days (whichever is less); and b) a copy of all of the patient's reasonably available diagnostic results and reports related to the portion of the medical records that are provided under this section.
- Makes clarification changes to the Advance Directives provisions at sections 166.003 (witnesses), 166.032 (Written Directive by Competent Adult; Notice to Physicians), and to the Statements Explaining Patient's Right to Transfer at section 166.052 of the Health and Safety Code.
- The provisions of this bill only apply to a review, consultation, disagreement, or other action relating to a health care or treatment decision made on or after **April 1, 2016**.
- The executive commissioner of the Health and Human Services Commission shall adopt all rules necessary to implement the bill by **March 1, 2016**.

**Impact:** In addition to educating our health care providers about these new provisions, we will need to update any existing forms and paperwork relating to Advance Directives and Statements Explaining a Patient's Right to Transfer by April 1, 2016 so they are available when the provisions of this bill relating to life-sustaining treatment, and modifications to the information that must be provided to the patient or person responsible for the health care decisions for the patient, go into effect. The update may be most appropriately handled through the patient records department.

**Implementation:** In addition to educating our health care providers about these new provisions, we will need to update any existing forms and paperwork relating to Advance Directives and Statements Explaining a Patient's Right to Transfer by April 1, 2016 so they are available when the provisions of this bill relating to life-sustaining treatment, and modifications to the information that must be provided to the patient or person responsible for the health care decisions for the patient, go into effect. The update may be most appropriately handled through the patient records department.

**Effective:** April 1, 2016

Bridget McKinley

**HB 3283** by Zerwas, et al. and Zaffirini

Relating to contributions and registrations for an anatomical gift registry; authorizing a fee.

This bill changes the title of §502.405(a) of the Texas Transportation Code to “Voluntary Contribution to Donor Registry,” and amends current law relating to contributions and registrations for an anatomical gift registry. More specifically, the bill:

- Allows donations of more than one dollar to The Glenda Dawson Donate Life-Texas Registry (DLT) during vehicle registration and the driver’s license application process.
- Creates an opportunity for commercial driver’s license holders to register as organ donors
- Under §521.126 of the Transportation Code, healthcare providers and hospitals are able to access and use electronically readable information derived from a driver’s license or DPS issued ID card to provide healthcare services for the license or cardholder without violating the prohibition against such access and use. Now, if an individual objects to the collection of the electronic information, the healthcare provider or hospital must use an alternative method to collect the information.
- Creates new exceptions to the prohibition against access or use of the electronic information for: 1) the non-profit organization administering the DLT; or 2) organ procurement organizations, tissue banks, or eye banks when the information is accessed and used to register the individual as an anatomical donor. Compliance with the notification and verification requirements set out in the bill are required before the scanned information can be transmitted.
- Provides that the statement of gift may be shown on the donor’s commercial driver’s license or by a card designed to be carried by the donor to evidence the donor’s consent with respect to organ, tissue, and eye donation.
- If the donor card is signed by the donor it shall have the same effect as if it were executed under §692A.005 (Manner and Making of Anatomical Gift Before Donor’s Death) of the Health and Safety Code.
- An affirmative statement on a commercial driver’s license executed after August 31, 2015, shall be conclusive evidence of a decedent’s status as a donor and serve as consent for organ, tissue, and eye removal.
- To revoke an affirmative statement of gift on an individual’s commercial driver’s license, the individual must apply to the department for an amendment to the license.
- Requires organ procurement organizations, tissue banks, and eye banks to provide donor registry information to DPS and the Texas Department of Transportation.

**Impact:** Our UT hospitals, institutions and providers, particularly those that are involved in organ, tissue and eye donation, should be made aware of these new donor and use of electronic information provisions.

**Implementation:** Patient records and admissions should implement a procedure to identify patients who have objected to accessing and using the electronic information on their driver's license or ID card to protect against prohibited access and use.

**Effective:** January 1, 2016

Bridget McKinley

[HB 2641](#) by Zerwas, et al. and Schwertner

Relating to the exchange of health information in this state; creating a criminal offense.

This bill is intended to encourage health care providers and state health authorities to utilize health information exchanges wherever possible. A "health information exchange" (HIE) is an organization that provides secure electronic health information exchange services that allows health care providers to send and receive patient health information. The expected benefits of HIE uses is increased connectivity and enabling patient-centric information flow to improve the quality and efficiency of health care. The use of HIEs is a key piece of the Medicare and Medicaid Electronic Health Care Record (EHR) Incentive Programs which provides incentive payments to eligible professionals, eligible hospitals, and critical access hospitals (CAHs) to reduce health care costs. The bill places the responsibility on the Texas Health & Human Services Commission to take the lead in developing HIEs for use in reports and other data exchanges involving Texas health and human services programs and limits civil liability for health care providers that utilize HIEs. Specifically, the bill:

- Clarifies that a physician, hospital or other health care provider who uses an available HIE for the purpose of obtaining, using or disclosing patient information is not liable for the HIE or another individuals use of that information in violation of applicable law unless the use was done with malice or gross negligence.
- Amends Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute.
- Authorizes HHSC to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective.
- Authorizes HHSC to continue to reimburse providers under Medicaid for the provision of home telemonitoring services until September 1, 2015.

- Amends Section 81.044(a), Texas Health and Safety Code (TH&SC) to require HHSC to commissioner to prescribe the form and method of required medical reporting to include the use of HIEs created by HHSC.
- Permits health care facilities, labs and health care practitioners to provide reports on cancer diagnoses to the Texas Cancer Registry under Health & Safety Code reports on cancer diagnoses to the Texas Cancer Registry under TH&SC; providers who provide immunization data to the Immunization Registry under Chapter 161 of TH&SC; and reports on patients diagnosed with communicable diseases to the Department of State Health Services under TH&SC Chapter 81 to make such reports through an HIE.
- creates a new Subchapter D to Chapter 182 of the TH&SC, authorizing hospitals, physicians and other health care providers who are required to provide confidential reports on patients diagnosed with communicable diseases to the Department of State Health Services under TH&SC Chapter 81, reports on cancer diagnoses to the Texas Cancer Registry under TH&SC Chapter 82, and reports on immunization to the Texas Immunization Registry pursuant to Chapter 161 of TH&SC to utilize an HIE to make such reports. HIEs are authorized to access and transmit such reports in compliance with applicable state and federal law.
- Criminalizes the use of protected health information in the possession of an HIE in a manner that violates new Subchapter D of Chapter 182 TH&SC.

**Impact:** Assuming the bill results in the creation of HIEs by HHSC for use in reporting and other communications between System health care providers and Texas state health programs, such as the Medicaid program, and institutions begin or continue to conduct more of their reporting and Medicaid billing online, UT System health care providers, such as hospitals and physician groups may see a reduction in overall medical care costs and increasing efficiencies as the result of increased use of HIEs in Texas. UT Institutions that provide or employ health care providers who provide home telemonitoring services will be able to continue to receive Medicaid reimbursement for those services through August 31, 2019

**Implementation:** UT institutions that provide health care and employ health care providers that bill for services through Medicare should track, and may wish to participate in the rulemaking process, for electronic reporting and reimbursement authorized by the bill and possible incentives available for use of HIE usage.

Institutions that currently participate in, or utilize HIEs or are exploring potential future participation in HIEs, should review the bill and take its requirements into account in their planning for use and participation in HIEs.

Health institutions should determine which care providers within the institution are required to provide reports to the agencies that will begin to accept reports through HIEs under the bill. They may also wish to explore if reporting through HIEs would be advantageous. If so, they should begin developing HIE reporting processes for these providers.

Health institutions that currently bill Medicare for home telemonitoring services should reexamine any current plans to curtail such services given the extension for Medicare billing for these services through fall 2019.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 2171](#) by Sheffield, et al. and Zaffirini

Relating to information maintained in the immunization registry with the consent of an individual after the individual becomes an adult.

The bill amends Section 161.007 of the Health and Safety Code which governs the immunization registry maintained by the Department of State Health Services (DSHS). It changes the process and timing by which an individual must provide consent to DSHS that is required to allow the retention of the individual's information in the immunization registry after an individual becomes an adult. It requires DSHS to make two attempts to contact individuals after they reach the age of 18 about their right to change their consent regarding the retention of their immunization information in the immunization registration through outreach efforts through the individual's health care provider or institution of higher education.

**Impact:** DSHS may call upon UT institutions to provide last known addresses for students in the registry. A federal confidentiality law, the Family Educational Records Privacy Act (FERPA) prohibits institutions from releasing student and former student addresses if the student has exercised their right to opt out of the release of their personal information to third parties. Institutions will need to be prepared to explain this to DSHS if they are requested to provide addresses for students who have opted out.

**Implementation:** Campus offices that maintain students' and former students' mailing addresses and other personal information about students will need to be informed of the possibility of such requests and prepare a strategy for responding to them in a way that complies with FERPA and the institution's FERPA policies.

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 203](#) by Nelson and Raymond, et al.

Relating to the continuation and functions of the Texas Health Services Authority as a quasi-governmental entity and the electronic exchange of health care information

The Texas Health Services Authority (“THSA”) was created by statute in 2007 and was legally structured as a nonprofit corporation to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges (“HIEs”) among public and private organizations across the state. Under Texas law, THSA is a public-private partnership that contracts with, but is not a part of, Health & Human Services Commission (HHSC) and is subject to the Sunset Act. In 2011, the THSA’s statutory authority was expanded to require it to develop privacy and security standards for the electronic sharing of protected health information and to develop a process for certifying health care provider’s compliance with HIPAA. These privacy and security standards help to gain the confidence of patients whose records are electronically transferred.

THSA is funded through a contract with HHSC through federal grants that are no longer available.

This bill adopts the recommendations of the Sunset Commission that THSA transition from a statutory non-profit corporation to an independent non-profit corporation between now and September of 2021.

Section One terminates the current requirement that a representative of the THSA serve as a member of the Electronic Health Information Exchange System Advisory Committee, a group made up of various types of providers, organizations, and state agencies whose purpose is to inform the HHSC about topics related to electronic health information as of September 1, 2021. In its place, a representative of a private non-profit corporation with relevant knowledge and experience in establishing statewide information exchange capabilities will serve on the Committee.

Section Two terminates the current requirement that HHSC coordinate with THSA on certain audits of health care providers’ compliance with HIPAA privacy requirements for health record as of September 1, 2021.

Section Three terminates the current requirement that HHSC and the Texas Department of Insurance consult with THSA on obtaining funding to support the development and oversight of health information exchanges as of September 1, 2021.

Sections Four, Five and Six provide that various provisions of the statute that authorizes THSA shall expire on September 1, 2021.



Section Seven provides that the two *ex officio* members that the governor must appoint to the THSA's board of directors may include representatives of any health and human services agency, rather than representatives of the Department of State Health Services, as is currently required

Sections Eight through Fourteen abolishes various powers and authorities currently granted to the THSA as of September 12, 2021.

Section 15 provides that privacy and security standards for sharing protected health information electronically that THSA was required to recommend to HHSC remain in effect unless and until HHSC amends them. It also provides that the private non-profit corporation designated by HHSC (which will replace the current THSA) will assist HHSC in establishing statewide standards for the sharing of protected health information through health information exchanges (HIEs) and will publish the standards on the private non-profit corporation's website.

**Impact:** This bill should not directly impact UT System. It may slow the development of Health Information Exchanges in Texas, which could indirectly impact System institutions that provide health care services and were relying on the efforts of the THAC to promote the creation of HIEs that would improve efficiency and efficiency of sharing and receiving health care information with other health care providers, insurers and other health care payors, and other entities. However, THSA can continue its mission to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges among health care providers and other organizations across the state without specific statutory authority as a private non-profit. Therefore, assuming THSA's transition to a private non-profit is successful, the bill may not impact UT System institutions in this regard at all. The bill does provide that the specific functions currently performed by THSA that have the potential to impact System institutions that provide health care services; namely, the adoption and amendment of privacy and security standards for sharing protected health information electronically, will continue to be performed by HHSC. If THSA does not succeed as a private non-profit corporation, HHSC can other establish its own certification process or designate another entity to do the certification.

**Implementation:** System institutions that provide health care services which involve the exchange of electronic health data should track the development of rules adopted by HHSC and THSA and any successor non-profit with regard to the adoption and amendment of privacy and security standards for sharing protected health information electronically. UT institutions should be aware of the provisions regarding the date upon which THSA loses authority to act, which take effect September 1, 2021

**Effective:** September 1, 2015

Barbara M. Holthaus

**SB 1574** by Uresti and Martinez

Relating to emergency response employees or volunteers and others exposed or potentially exposed to certain diseases or parasites and to visa waivers for certain physicians.

Immigration Waivers for Physicians

This bill amends Section 12.0127 of the Texas Health and Safety Code, Immigration Waivers for Physicians, to allow a request for waiver of the foreign country residency requirement for a qualified alien physician who agrees to practice in:

- an area that the Department of State Health Services (DSHS) determines is affected by an ongoing exposure to a disease that is determined reportable under section 81.048;
- a medically underserved area; or
- a health professional shortage area.

Accidental Exposure Testing

- This bill amends Article 18.22 of the Texas Code of Criminal Procedure (testing for communicable diseases following certain arrests) so that it provides a mechanism to require an arrestee to undergo testing for communicable diseases when an “emergency response employee” or volunteer came into contact with the person’s bodily fluids (previously only applied when “peace officers” were exposed).
  - “Emergency response employee” or volunteer means an individual acting in the course and scope of employment or service as a volunteer as emergency medical service personnel, a peace officer, a detention officer, a county jailer or a fire fighter.
  - The person performing the procedure or test shall make the results available to the local health authority and the designated “infection control officer” (see below) of the entity that employs or uses the services of the emergency response employee or volunteer. The local health authority or the designated infection control officer shall notify the emergency response employee or volunteer of the test result.
- This bill also adds sections 81.012 and 81.013 to the Texas Health and Safety Code which require that entities that employ or use the services of an emergency response employee or volunteer shall nominate a “designated infection control” officer and an alternate designated infection control officer to receive notification of a potential exposure to a reportable disease from a health care facility. The infection control officer will:
  - receive notification of a potential exposure to a reportable disease from a health care facility;

- notify the appropriate health care providers of a potential exposure to a reportable disease;
- act as a liaison between the entity's emergency response employees or volunteers who may have been exposed and the destination hospital of the patient who was the source of the potential exposure;
- investigate and evaluate the potential exposure;
- monitor all follow-up treatment provided to the affected emergency response employee or volunteer in accordance with applicable federal, state and local law.
- The entity that employs or uses services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health care facilities that the entity has a designated infection control officer or alternate officer.
- Amends section 81.048 of the Texas Health and Safety Code (now titled Notification of Emergency Response Employee or Volunteer) to:
  - add “designated infection control officers” to the list of persons to whom medical or epidemiological information may be released.
  - add a negative test result to the information that shall be given to the emergency response employee or volunteer (previously only positive results were required to be reported).
  - require that the hospital provide notice of the possible exposure to the designated infection control officer.
- Amends section 607.102 of the Texas Health and Safety Code to provide that emergency response employees and volunteers who are exposed to methicillin-resistant *Staphylococcus aureus* or a disease caused by a select agent or toxin identified or listed under 42 C.F.R. Section 73.3 to receive notification of the exposure in the manner provided under section 81.048 of the Texas Health and Safety Code (Notification of Emergency Personnel, Peace Officers, Detention Officers, County Jailers and Fire Fighters).
- Amends section 81.095 of the Texas Health and Safety Code (Testing for Accidental Exposure) to:
  - add “HIV and any other reportable disease” to the tests the hospital must take reasonable steps to conduct in the case of accidental exposure of a health care worker, an emergency response employee or volunteer or first responder who

renders assistance at the scene of an emergency or during transport to the hospital (previously only required to test for hepatitis B or C).

- require the hospital to provide the test results to the local health authority and the designated infection control officer who will then inform the person exposed according to section 81.050 (h).
- Amends section 91.0955 of the Texas Health and Safety Code (Testing for Accidental Exposure of a Deceased Person) to require that following the report of an emergency response volunteer or employee or a first responder's exposure to the blood or other bodily fluids of a person who dies at the scene of an emergency or during transport to the hospital, the hospital, certified EMS, justice of the peace, medical examiner or physician, on behalf of the person exposed, shall take reasonable steps to have the deceased person tested for reportable diseases and to report the results to the designated infection control officer or the local health authority (previously, justice of the peace and medical examiner were not included). If applicable, the department or local health authority shall report the results to the next of kin (previously all, including the hospital and the physician, had a duty to report the results to the next of kin under this section).
- Amends section 81.103 of the Texas Health and Safety Code (Confidentiality; Criminal Penalty) to add "designated infection control officer" to the list of persons to whom test result may be released without committing a criminal offense.
- Amends section 81.107 of the Texas Health and Safety Code to permit a health care agency or facility to perform a test for HIV without the person's consent if an emergency response employee or volunteer has been accidentally exposed to the person's blood or other bodily fluids.

**Impact:** With respect to the new physician immigration waiver provision, our UT Health Institutions and physicians will want to be aware of the new potential avenues for waiver of the foreign country residency requirement for qualified alien physicians. With respect to accidental exposure reporting, this bill greatly expands the list of persons that our UT Health Institutions and physicians must notify about a positive or negative test result for a reportable disease under the Texas Health and Safety Code so that notification is now required in the case of an emergency response employee or volunteer's accidental exposure to blood or bodily fluids. It also significantly expands that list of diseases for which testing must be conducted and requires that the test results be reported to the "designated infection control officer" for the entity that employs or uses the services of the emergency response employee or volunteer. This is a new designation and reporting requirement.

**Implementation:** Our UT Health Institutions will need to educate our health care providers, particularly those who work in the emergency department and laboratory, about these new testing and reporting requirements and make sure that we have the appropriate network set up for testing, reporting and keeping records of entities' designated infection

control officers when we are provided with that information. One possible avenue of implementation would be to use the already existing structure in place for accidental exposure testing and reporting relating to peace officers.

**Effective:** September 1, 2015

Bridget McKinley

[SB 1881](#) by Zaffirini and Peña, et. al.

Relating to authorizing supported decision-making agreements for certain adults with disabilities.

This bill added Chapter 1357 to the Estates Code which authorizes an adult with a disability to voluntarily enter into a supported decision-making agreement with a supporter under which the adult with a disability authorizes the supporter to do any or all of the following:

- provide supported decision-making without making those decisions on behalf of the adult with a disability;
- assist the adult in accessing, collecting, and obtaining information that is relevant to a given life decision from any person;
- assist the adult with a disability in understanding such information; and
- assist the adult in communicating the adult's decisions to appropriate persons.
- Under the supported decision-making agreement, the supporter is authorized to assist in accessing, collecting, or obtaining information that is relevant to the decision authorized under the agreement.

A person who receives an original or copy of a supported decision-making agreement that substantially complies with the form included at section 137.056 *shall* rely on the agreement. The form contains a provision identifying whether a Health Insurance Portability Act (HIPAA) release is attached.

If a person who receives a copy of a supported decision-making agreement or who is aware of the existence of such an agreement has cause to believe that the adult with the disability has is being abused, neglected or exploited by the supporter, they *shall* report to the Department of Family and Protective Services.

**Impact:** Our UT Health Institutions and healthcare providers may be presented with these supported decision-making agreements in conjunction with a request by the supporter for medical records or medical information relating to the adult with a disability. They will need to be aware of the requirement that the agreement must be in substantially the same form as that set out in the chapter and that a HIPAA compliant release must be attached or provided in order for the supporter to have access to the HIPAA protected information. They will also need to be aware of the duty to report potential abuse, neglect or exploitation

that is in effect once they receive a copy of or are aware of the existence of the supported decision-making agreement.

**Implementation:** There is no active implementation that needs to occur for this legislation. The Medical Records Departments should be provided with this information so they are aware that the designated supporters may be requesting records and our institutions may want to consider adding a section in the patient medical record to indicate whether a supported decision-making agreement exists.

**Effective:** June 19, 2015

Bridget McKinley

### **Payment for Medical Services**

[HB 1945](#) by Bonnen et al. and Hancock

Relating to the provision of direct primary care.

HB 1945 adds Subchapter F to Chapter 162 of the Occupations Code to authorize physicians, professional associations and a professional limited liability company owned by a physician to charge a “direct fee” for primary medical care as a monthly fee, membership fee, subscription fee or fee paid under a medical service agreement. The Texas Department of Insurance, the Texas Medical Board and all other state agencies are prohibited from regulating or “interfering” with these arrangements. This bill expressly permits “concierge medicine” and other non-traditional patient care arrangements that depart from the “fee for service model”. To the extent that patients contract for future services with current payments they must rely on the continued ability of the physician or professional association to deliver services. Patients will also continue to need insurance for specialized and hospital-based care.

**Impact:** It is unclear whether UT health institutions’ physicians practice plans can compete on an equal basis with such arrangements and the extent to which such plans may affect their payer mix.

**Implementation:** Health institutions may wish to analyze the effect of such non-traditional patient care arrangements and whether to consider offering these types of arrangements for primary care.

**Effective:** Immediately.

Allene Evans

[SB 481](#) by Hancock, et al. and Smithee

Relating to consumer information concerning facility-based physicians and notice and availability of mediation for balance billing by a facility-based physician.

SB 481 amends Section 324.001(8) of the Health and Safety Code and Section 1456.004(c) of the Insurance Code to include assistant physicians in the definition of facility-based physicians who are subject to balance billing notice and mediation requirements. The bill also expands mediation rights for any amount greater than \$500. Prior law limited this mediation right to claims for which the enrollee was responsible for more than \$1000. These provisions apply to licensed hospitals, ambulatory centers and birthing centers.

**Impact:** There is no direct impact on UT health institutions and its physicians since UT health institutions are not licensed under these provisions. However, UT health institutions generally comply with Chapter 241 requirements to the extent it is practical to do so.

**Implementation:** Consider voluntary implementation.

**Effective:** September 1, 2015

Allene Evans

### **Medicaid and Indigent Health Care**

[HB 3523](#) by Raymond, et al. and Perry

Relating to improving the delivery and quality of Medicaid acute care services and long-term care services and supports.

HB 3523 amends the Government Code, including provisions amended by SB 219, Acts of the 84th Legislature, Regular Session, 2015, to require the Health and Human Services Commission (HHSC) and the Department of Aging and Disability Services (DADS) to perform specified duties as part of the system redesign for delivery of Medicaid acute care services and long-term service. The bill provides support for individuals with intellectual and developmental disabilities in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee. The bill authorizes the advisory committee to establish work groups for the purpose of making recommendations on issues the committee considers appropriate and postpones the date on which the advisory committee is abolished to January 1, 2026.

The bill removes a September 1, 2019, expiration date from statutory provisions requiring HHSC to provide Medicaid benefits to recipients who reside in nursing facilities through the STAR + PLUS Medicaid managed care program, requiring HHSC to establish credentialing and minimum performance standards for nursing facility providers seeking to participate in the STAR + PLUS Medicaid managed care program, and prohibiting a managed care organization from requiring prior authorization for a nursing facility resident in need of emergency hospital services.

The bill requires the plan for transitioning the provision of Medicaid benefits between a Medicaid waiver program or an ICF-IID program and a pilot program to be developed by HHSC. HHSC and DADS, in consultation and collaboration with the advisory committee,

are required to analyze the outcomes of providing acute care Medicaid benefits to individuals with an intellectual or developmental disability through the STAR + PLUS Medicaid managed care program or other integrated capitated managed care program delivery model.

HB 3523 authorizes DADS to contract with providers participating in the home and community-based services (HCS) waiver program, the Texas home living (TxHmL) waiver program, the community living assistance and support services (CLASS) waiver program, or the deaf-blind with multiple disabilities (DBMD) waiver program for the delivery of basic attendant and habilitation services for individuals with an intellectual or developmental disability receiving services under the STAR + PLUS Medicaid managed care program. The bill specifies that DADS has regulatory and oversight authority over the providers with which DADS contracts for the delivery of those services.

HB 3523 authorizes HHSC to transition the provision of Medicaid benefits to applicable individuals to the STAR + PLUS Medicaid managed care program delivery model or other integrated capitated managed care program delivery model on or after September 1, 2018. The bill requires HHSC to analyze the outcomes of the transition of the long-term services and supports under the Texas home living (TxHmL) Medicaid waiver program to a managed care program delivery model and requires the analysis to include an assessment of the effect of the transition on access to long-term services and supports; meaningful outcomes using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community; the integration of service coordination of acute care services and long-term services and supports; employment assistance and customized, integrated, competitive employment options; and the number and types of fair hearing and appeals processes in accordance with applicable federal law.

The bill authorizes HHSC, after the transition of the provision of Medicaid benefits to recipients of long-term services and supports under the Texas home living (TxHmL) waiver program to an integrated managed care system is implemented to transition the provision of Medicaid benefits to individuals with intellectual and developmental disabilities who are receiving long-term services and supports under a Medicaid waiver program other than the Texas home living (TxHmL) waiver program or under an ICF-IID program to the STAR + PLUS Medicaid managed care program delivery model or other integrated capitated managed care program delivery model on or after September 1, 2021.

**Impact:** Health care providers at UT System institutions should be aware of overall changes to the structures of HHSC and DADS, as well as upcoming changes to the administration of Medicaid managed care plans for various subsets of Medicaid recipients.

**Implementation:** Currently, the restructuring of HHSC and DADS does not require implementation by UT System institutions; however all health care providers should be aware of ongoing restructuring and review of all HHSC and DADS processes including the administration of the Medicaid system.

**Effective:** June 19, 2015

Timothy Boughal



[\*\*HB 3519\*\*](#) by Guerra, et al. and Watson

Relating to the use of home telemonitoring services under Medicaid.

H.B. 3519 continues the requirement previously scheduled for sunset in 2015 that Medicaid provide reimbursement for telemonitoring services provided to qualified Medicaid and Children's Health Insurance Program (CHIP) recipients. The bill further expands coverage for telemonitoring services for persons with diabetes, heart disease, cancer, chronic obstructive pulmonary disease, hypertension, congestive heart failure, mental illness, asthma, myocardial infarction, stroke, who are pregnant, chronically ill children, and persons with other conditions which the Health and Human Services Commission determines through evidence based medicine is cost effective.

Payment for telemonitoring services shall also be required if, in the event of an unsuccessful data transmission, the provider attempts to communicate with the patient by telephone, or in person, to establish a successful data transmission.

If payment is collected for telemonitoring, collection may not be made for telephone contacts or in person to set up successful data transmission.

Telemonitoring reimbursement from Medicaid is next scheduled for sunset in 2021.

**Impact:** Health care providers at UT System institutions should be aware that they may continue to use telemonitoring services for Medicaid and CHIP patients meeting the criteria for reimbursement under the program. Health Care Providers will be able to use telemonitoring services as an alternative to in person visits and phone follow-ups for certain visits with chronically ill patients for monitoring purposes.

**Implementation:** All health care providers at UT System institutions will need to be aware of the ability to use telemonitoring services and receive reimbursement for such services from Medicaid and CHIP. Billing services at UT System institutions need to ensure appropriate structures are in place to seek reimbursement from Medicaid and ensure that telephone calls and/or in person visits for data transmission are not billed in instances where telemonitoring is used.

**Effective:** September 1, 2015

Timothy Boughal

[\*\*SB 760\*\*](#) by Schwertner and Price

Relating to provider access and assignment requirements for a Medicaid managed care organization.

S.B. 760 amends the Government Code to require that the Health and Human Services Commission (HHSC) establish minimum provider access standards for the provider network of a managed care organization that contracts with HHSC to provide managed care services. The bill requires the access standards to ensure that a managed care

organization provides recipients sufficient access to preventive care, primary care, specialty care, after-hours urgent care, chronic care, long-term services and supports, nursing services, therapy services, and any other services identified by HHSC. The bill requires the provider access standards, to the extent feasible, to distinguish between access to providers in urban and rural settings, and to consider the number and geographic distribution of Medicaid-enrolled providers in a particular service delivery area.

The bill authorizes HHSC to terminate or opt not to retain managed care contracts with providers failing to comply with provider access standards. Website provider network directories are required for managed care providers which are updated monthly with direct telephone numbers and email addresses for providers.

S.B. 760 requires managed care organizations contracting with HHSC to implement expedited credentialing processes allowing providers to provide services on a provisional basis. Applicant providers must be members of an established provider group with a current contract to qualify for expedited credentialing. The bill requires managed care contracts to include provisions for initial and subsequent primary care provider assignments.

HHSC is required to establish and implement a process for the direct monitoring of a managed care organization's provider network and providers in the network. The bill requires the process to be used to ensure compliance with contractual obligations related to the number of providers accepting new patients under the Medicaid managed care program and the length of time a recipient must wait between scheduling an appointment with a provider and receiving treatment from the provider. The bill authorizes the process to use reasonable methods to ensure compliance with contractual obligations and to be implemented directly by HHSC or through a contractor.

S.B. 760 requires HHSC to seek to amend contracts entered into with managed care organizations before the bill's effective date to require that those managed care organizations comply with the bill's applicable provisions and establishes that, to the extent of a conflict between those applicable provisions and a provision of a contract with a managed care organization entered into before the bill's effective date, the contract provision prevails.

**Impact:** UT System institutions and providers participating in Medicaid managed care organizations will be subject to new contractual requirements and increased direct monitoring for actions within the managed care organization.

**Implementation:** UT System institutions and providers should be aware of the new required contractual provisions, increased direct monitoring, and ensure provider contracts include mandated provisions.

**Effective:** September 1, 2015

Timothy Boughal

## Public Health

[HB 2055](#) by Davis and Schwertner

Relating to the establishment of a sentinel surveillance program for emerging and neglected tropical diseases.

- SB 2055 amends the Health and Safety Code to add Chapter 100 relating to emerging and neglected tropical diseases. Emerging diseases are defined as a disease appearing in a specific population for the first time or that is increasing in incidence or geographic range. Neglected tropical diseases are defined as parasitic or bacterial diseases occurring solely or principally in the tropics, are endemic to the developing world, and have potential to spread through international travel or trade.
- The bill applies to all health facilities broadly defined as including publically or privately funded medical schools and any other facility not listed as specified by rule by HSHC executive commissioner.
- HSHC executive commissioner shall establish a sentinel surveillance program to identify infected individuals, maintain a database of laboratory confirmed cases and determine the system for maintaining such data. The commissioner has the authority to require a health facility or a health professional to make medical records available for review and reimburse them for the actual cost incurred in making the information available.
- State or governmental entities capable of assisting HSHC must cooperate and furnish expertise, services and facilities to the program.
- There is no civil or criminal liability for divulging this required information except if there is gross negligence or willful misconduct.
- Implementing rules are required by November 1, 2015.

**Impact:** UT health institutions and their health care professionals will be required to provide requested information, however, actual costs are reimbursable and the de-identified public health data collected will be available for research or similar purposes.

**Implementation:** UTS and its health institutions with particular expertise in emerging and neglected tropical diseases may want to offer expertise, services and/or facilities to the program.

**Effective:** September 1, 2015

Allene Evans

Relating to creation of the Texas Health Improvement Network.

This bill creates the Texas Health Improvement Network (THIN), which is a network of diverse health professionals dedicated to developing initiatives and translating research on population health into health policy and developing best practices to address urgent health challenges in Texas and the nation.

THIN's purpose is to:

- Reduce per capita costs of health care;
- Improve the individual experience of health care, including quality of care and patient satisfaction; and
- Improve the health of the residents of this state.

THIN will be administratively attached to the University of Texas System (UT System). The UT System shall administer and coordinate the Network and provide administrative support to the Network as necessary to carry out the purposes of the chapter.

Funds for THIN may be secured through donations, grants, and federal money.

THIN shall consist of experts in various fields identified in the statute.

THIN's primary goals are to evaluate and eliminate health disparities in this state, health care cost containment, and the economic analysis of health policy. It will function as an incubator and evaluator of health improvement practices and support local communities in this state by offering leadership training, data analytics, community health assessments, and grant writing support.

THIN will also have an advisory council to advise the network on the health care needs of this state that is composed of:

- Members who are appointed by an executive officer of The University of Texas System and nominated by participants in the network, and who are state and national leaders in population health, experts in traditional public health and medicine, leaders in the fields of behavioral health, business, insurance, philanthropy, education and health law and policy; and
- Representatives from the department and the commission, selected by the head of the agency.

The presiding officer of the UT System who appoints the members to the advisory council shall appoint a presiding officer from among the members. A member of the advisory council may not receive compensation for service on the advisory council.

**Impact:** The University of Texas System will now be responsible for administering and coordinating THIN. The executive officer of the University System is responsible for appointing members to THIN.

**Implementation:** THIN is administratively attached to the UT System so the System will need to develop the framework for administering and coordinating THIN. An executive officer of the UT System will need to appoint members to the THIN Advisory Council from the THIN Network participant members who are nominated by Network participants. The executive officer of The University of Texas System who appoints the members to the advisory council will also need to appoint the presiding officer of the THIN Advisory Council. The UT System Office of Health Affairs may be a good resource for assistance with implementation of this bill and recommendations regarding Network and Advisory Council composition.

**Effective:** June 19, 2015

Bridget McKinley

[SB 1574](#) by Uresti and Martinez

Relating to emergency response employees or volunteers and others exposed or potentially exposed to certain diseases or parasites and to visa waivers for certain physicians.

#### Immigration Waivers for Physicians

This bill amends Section 12.0127 of the Texas Health and Safety Code, Immigration Waivers for Physicians, to allow a request for waiver of the foreign country residency requirement for a qualified alien physician who agrees to practice in:

- an area that the Department of State Health Services (DSHS) determines is affected by an ongoing exposure to a disease that is determined reportable under section 81.048;
- a medically underserved area; or
- a health professional shortage area.

#### Accidental Exposure Testing

- This bill amends Article 18.22 of the Texas Code of Criminal Procedure (testing for communicable diseases following certain arrests) so that it provides a mechanism to require an arrestee to undergo testing for communicable diseases when an “emergency response employee” or volunteer came into contact with the person’s bodily fluids (previously only applied when “peace officers” were exposed).

- “Emergency response employee” or volunteer means an individual acting in the course and scope of employment or service as a volunteer as emergency medical service personnel, a peace officer, a detention officer, a county jailer or a fire fighter.
- The person performing the procedure or test shall make the results available to the local health authority and the designated “infection control officer” (see below) of the entity that employs or uses the services of the emergency response employee or volunteer. The local health authority or the designated infection control officer shall notify the emergency response employee or volunteer of the test result.
- This bill also adds sections 81.012 and 81.013 to the Texas Health and Safety Code which require that entities that employ or use the services of an emergency response employee or volunteer shall nominate a “designated infection control” officer and an alternate designated infection control officer to receive notification of a potential exposure to a reportable disease from a health care facility. The infection control officer will:
  - receive notification of a potential exposure to a reportable disease from a health care facility;
  - notify the appropriate health care providers of a potential exposure to a reportable disease;
  - act as a liaison between the entity’s emergency response employees or volunteers who may have been exposed and the destination hospital of the patient who was the source of the potential exposure;
  - investigate and evaluate the potential exposure;
  - monitor all follow-up treatment provided to the affected emergency response employee or volunteer in accordance with applicable federal, state and local law.
- The entity that employs or uses services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health care facilities that the entity has a designated infection control officer or alternate officer.
- Amends section 81.048 of the Texas Health and Safety Code (now titled Notification of Emergency Response Employee or Volunteer) to:
  - add “designated infection control officers” to the list of persons to whom medical or epidemiological information may be released.

- add a negative test result to the information that shall be given to the emergency response employee or volunteer (previously only positive results were required to be reported).
- require that the hospital provide notice of the possible exposure to the designated infection control officer.
- Amends section 607.102 of the Texas Health and Safety Code to provide that emergency response employees and volunteers who are exposed to methicillin-resistant *Staphylococcus aureus* or a disease caused by a select agent or toxin identified or listed under 42 C.F.R. Section 73.3 to receive notification of the exposure in the manner provided under section 81.048 of the Texas Health and Safety Code (Notification of Emergency Personnel, Peace Officers, Detention Officers, County Jailers and Fire Fighters).
- Amends section 81.095 of the Texas Health and Safety Code (Testing for Accidental Exposure) to:
  - add “HIV and any other reportable disease” to the tests the hospital must take reasonable steps to conduct in the case of accidental exposure of a health care worker, an emergency response employee or volunteer or first responder who renders assistance at the scene of an emergency or during transport to the hospital (previously only required to test for hepatitis B or C).
  - require the hospital to provide the test results to the local health authority and the designated infection control officer who will then inform the person exposed according to section 81.050 (h).
- Amends section 91.0955 of the Texas Health and Safety Code (Testing for Accidental Exposure of a Deceased Person) to require that following the report of an emergency response volunteer or employee or a first responder’s exposure to the blood or other bodily fluids of a person who dies at the scene of an emergency or during transport to the hospital, the hospital, certified EMS, justice of the peace, medical examiner or physician, on behalf of the person exposed, shall take reasonable steps to have the deceased person tested for reportable diseases and to report the results to the designated infection control officer or the local health authority (previously, justice of the peace and medical examiner were not included). If applicable, the department or local health authority shall report the results to the next of kin (previously all, including the hospital and the physician, had a duty to report the results to the next of kin under this section).
- Amends section 81.103 of the Texas Health and Safety Code (Confidentiality; Criminal Penalty) to add “designated infection control officer” to the list of persons to whom test result may be released without committing a criminal offense.

- Amends section 81.107 of the Texas Health and Safety Code to permit a health care agency or facility to perform a test for HIV without the person's consent if an emergency response employee or volunteer has been accidentally exposed to the person's blood or other bodily fluids.

**Impact:** With respect to the new physician immigration waiver provision, our UT Health Institutions and physicians will want to be aware of the new potential avenues for waiver of the foreign country residency requirement for qualified alien physicians. With respect to accidental exposure reporting, this bill greatly expands the list of persons that our UT Health Institutions and physicians must notify about a positive or negative test result for a reportable disease under the Texas Health and Safety Code so that notification is now required in the case of an emergency response employee or volunteer's accidental exposure to blood or bodily fluids. It also significantly expands that list of diseases for which testing must be conducted and requires that the test results be reported to the "designated infection control officer" for the entity that employs or uses the services of the emergency response employee or volunteer. This is a new designation and reporting requirement.

**Implementation:** Our UT Health Institutions will need to educate our health care providers, particularly those who work in the emergency department and laboratory, about these new testing and reporting requirements and make sure that we have the appropriate network set up for testing, reporting and keeping records of entities' designated infection control officers when we are provided with that information. One possible avenue of implementation would be to use the already existing structure in place for accidental exposure testing and reporting relating to peace officers.

**Effective:** September 1, 2015

Bridget McKinley

**SB 219** by Schwertner and Price, et al.

Relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies, and the licensing of certain health professionals; clarifying certain statutory provisions; authorizing the imposition of fees.

S.B. 219 is non-substantive amendment and recodification of the provisions of the Government Code, Health and Safety Code Family Code, Human Resources Code and Occupations Code pertaining to the Texas Health and Human Services Commission (HHSC). The bill does not make substantive changes to the statutes governing the administration and oversight of health and human services in the state of Texas; however the amendments direct HHSC, Department of Aging and Disability Services, Department of State Health Services, Department of Assistive and Rehabilitative Services, and Department of Family and Protective Services to, transition, evaluate, and adopt rules for operation of the various health and human services agencies within the state of Texas.



The bill consolidates oversight of many health care functions with the executive commissioner of HHSC.

**Impact:** Because the bill is a non-substantive recodification, it will not have a direct impact on UT System institutions. However, UT System institutions should be aware of the requirement that HHSC and its agencies will adopt new rules governing all facets of health care oversight within the state. Therefore, various rules adopted by HHSC and its agencies may result in impacts to UT System institutions when adopted.

**Implementation:** Currently this bill does not require any implementation by UT System institutions. However, UT System institutions should be aware of the requirement that HHSC and its agencies will adopt new rules governing all facets of health care oversight within the state, and therefore, various rules adopted by HHSC and its agencies may result in the need for to UT System institutions to implement changes when such rules are adopted.

**Effective:** April 2, 2015

Timothy Boughal, Barbara Holthaus

[SB 1587](#) by Eltife and VanDeaver, et al.

Relating to the creation and operations of health care provider participation programs in certain counties.

S.B. 1587 amends the Health and Safety Code to allow the creation of a county health care provider participation program authorizing a Texas-Louisiana border region county to collect mandatory payments from institutional providers in a county to be used for intergovernmental transfers to receive matching federal 1115 Medicaid funds. The bill allows the county commissioners to adopt an order authorizing the county's participation in the program.

The bill defines "institutional health care provider" as a nonpublic hospital that provides inpatient hospital services.

The bill authorizes the commissioners court of a county that collects a mandatory payment to require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the county and authorizes the commissioners' court to provide for the mandatory payment to be assessed quarterly. The bill sets out related provisions regarding the amounts to be set by the commissioners' court for the mandatory payments and caps the amount of the mandatory payment required of each paying hospital at such an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the county, equals an amount that does not exceed six percent of the aggregate net patient revenue of all paying hospitals in the county.

**Impact:** The University of Texas Health Science Center at Tyler may be required to participate as a required institutional payor in a county healthcare provider participation

program in order allow Smith county and surrounding counties to receive matching 1115 Medicaid funds.

**Implementation:** Currently this bill does not require any implementation by the University of Texas Health Science Center at Tyler, however the Smith county commissioners' court may create a county health care provider participation program requiring payment from the University of Texas Health Science Center at Tyler.

**Effective:** May 28, 2015

Timothy Boughal

### **Hospitals**

[HB 2559](#) by Zerwas and Watson

Relating to leases and other agreements involving real property entered into by certain hospital districts.

This act amends Sections 281.050(b) and 281.0511 of the Health and Safety Code. The amendment to Section 281.050(b) permits the board of a hospital district, with the approval of the commissioners court, to enter into a lease with option to purchase, an installment purchase agreement, or any other type of agreement that relates to real property for the improvement, acquisition or management of developed or undeveloped real property.

Under the amendment to Section 281.0511, which “applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003(which likely only includes Travis County) a hospital district board may, with commissioners court approval, enter into ground leases for undeveloped or vacant real property for not more than 99 years to provide for the development of facilities designed to generate revenue for the hospital district. The hospital district, directly or through a nonprofit corporation, may enter into a joint venture with a public or private entity to enter into such lease.

**Impact:** The amendment to Section 281.0511 will impact UT Austin’s Medical District, which is adjacent to land owned by Central Health. The amendment to Section 281.050(b) will apply to hospital districts in Dallas, Harris, Tarrant, Travis, Bexar, Galveston, Ector, and others.

**Implementation:** Advise UT System health institutions of the amendment to section 281.050(b) of the Health & Safety Code, which will apply to hospital districts with which they interact. The amendment to section 281.0511 will indirectly affect UT Austin Medical District and this institution should be advised of this change.

**Effective:** May 23, 2015

Ed Walts

[HB 2244](#) by Zerwas, et al. and Creighton

Relating to the regulation of medical waste; adding and amending provisions subject to a criminal penalty.

HB 2244 does the following:

- Consolidates existing law governing the management of medical waste from various sections in the rules and statutes governing all solid waste management.
- Vests the Texas Commission on Environmental Quality (TCEQ) with the responsibility for the regulation of the handling, transportation, storage and disposal of medical waste.
- Provides that rules adopted to regulate municipal solid waste storage and processing units would apply in the same manner to medical waste only to the extent that they address:
  - permit and registration requirements that could be applied to a facility that handled medical waste;
  - minor modifications to permits and registrations, including changes in operating hours and buffer zones; and
  - numerous other requirements and conditions identified in the bill related to the management and storage of waste and associated issues.
- Requires that entities that send medical waste, including sharps, to a solid waste landfill to include a statement about the methods used to treat the contents of the shipment and how they complied with the applicable administrative rules.
- Provides that in facilities that handle medical waste processing and storage, the TCEQ shall not
- require a minimum separating distance of greater than 25 feet between the processing equipment or storage area and the facility boundary (this provision does not apply to a storage unit as long as waste contained in transport vehicles for more than 72 hours is refrigerated below 45 degrees).
- TCEQ must adopt rules by June 1, 2016, to implement this bill's provisions.
- An existing facility that has a permit, registration, pending registration, pending permit application, or other authorization to handle medical waste will not be required to comply with this bill until the new rules to be adopted by TCEQ take effect.

**Impact:** Our UT Health Institutions that have permits, registrations, pending permit applications, or other authorization to handle medical waste will need to be aware of the

provisions in this bill and the consolidation of existing law relating to the management of medical waste. They will also need to monitor the TCEQ's rule development for implementation of this chapter so that they have adequate time to ensure compliance with those rules before they go into effect.

**Implementation:** Our UT Health Institutions that have permits, registrations, pending permit applications, or other authorization to handle medical waste should designate a person or persons with the department that currently oversees the medical waste program to review the changes to existing law made by this bill, and to monitor the TCEQ's rule development for implementation of this chapter so that they have adequate time to ensure compliance with those rules before they go into effect. The TCEQ is required to adopt rules to implement this bill by June 1, 2016, and compliance with the new rules will be required by the effective date of those rules as set by TCEQ.

**Effective:** June 10, 2015

Bridget McKinley

[HB 1670](#) by Sheets, et al. and Watson

Relating to the possession and removal of a placenta from a hospital or birthing center.

This bill amends Subtitle H of the Health and Safety Code (Public Health Provisions) by adding a new Chapter 172 which requires that birthing centers and hospitals allow a woman, or her spouse if she is incapacitated or deceased, to take possession of and remove the delivered placenta (except for the portion that is necessary for a pathological examination) from the facility for personal use only if:

- the woman tests negative for infectious diseases as evidenced by the results of the diagnostic testing required by section 81.090 of the Health and Safety Code (Diagnostic Testing Before and After Birth); and
- the person taking possession signs a form acknowledging that: 1) they have received from the hospital or birthing center educational information prescribed by the department regarding blood borne diseases from placentas and the proper handling of placentas, the danger of ingesting formalin, and the proper handling of placentas; and 2) the placenta is for personal use.

The hospital or birthing center shall retain a signed copy of the form from the placenta recipient in the woman's medical records.

The term "hospital" includes a facility licensed under Chapter 241 of the Health and Safety Code or a hospital maintained or operated by this state.

Pathological examination of the delivered placenta that is ordered by a physician or required by a hospital policy is not prohibited by this section. This bill does not authorize a woman or her spouse to interfere with the pathological examination.

A hospital or birthing center that allows a person to take possession of and remove the delivered placenta in compliance with this section is not required to dispose of the placenta as medical waste.

A hospital or birthing center that acts in compliance with this section is not liable in a civil action, a criminal prosecution, or an administrative proceeding.

The Department shall develop the form and educational information required under this section.

- The executive commissioner of the Health and Human Services Commission (HHSC) shall adopt the rules necessary to implement this new chapter by **December 1, 2015**.
- A hospital or birthing center is not required to comply with the provisions relating to removal of the delivered placenta until **January 1, 2016**.

**Impact:** Our UT Health Institutions and healthcare providers, particularly those in our obstetrics and gynecology and labor and delivery departments will need to be informed about the requirements of this section including the requirement that they permit the possession and removal of the placenta, and the requirement that they have the release form executed and retained in the woman's medical record. The bill does not address how the patient or her spouse is supposed to notify the hospital or birthing center or when notification must be provided. Unless the executive commissioner of HHSC adopts rules addressing notification, our institutions will need to develop procedures for receiving notice that the patient or spouse wants to retain the placenta and for ensuring that the information is recorded so that it is available at the time of delivery. Finally, while a hospital or birthing center that allows a person to take possession of and remove the delivered placenta in compliance with this section is not required to dispose of the placenta as medical waste, our hospitals and birthing centers should still comply with the applicable medical waste requirements for any portion of the placenta that is retained for pathological examination.

**Implementation:** Our institutions will need to bring this new placental possession and removal law to the attention of our health care providers in obstetrics and gynecology and labor and delivery, possibly through the heads of those departments.

Our institutions, possibly through the department that oversees policies and procedures, will also need to monitor the development of the forms and implementation rules by the department and executive commissioner so that we will have that information in advance of the January 1, 2016 compliance deadline. Unless the executive commissioner of HHSC adopts rules addressing notification, our institutions will need to develop procedures for receiving notice that the patient or spouse wants to retain the placenta and for ensuring that the information is recorded so that it is available and accessible at the time of delivery so the placenta can be retained. Our institutions will also need to develop a procedure for

retaining the placenta until the patient is discharged after delivery, possibly through the pathology department.

**Effective:** June 17, 2015

Bridget McKinley

**HB 1596** by Guerra et al. and Hinojosa

Relating to the Hidalgo County Healthcare District; decreasing the possible maximum rate of a tax.

HB 1596 amends the Special District Local Laws Code to change authorization for the Hidalgo County Hospital District to Healthcare District. The healthcare district, if created, operates and is financed as a hospital district. This amendment provides for an election ordered by the Hidalgo County Court if petitioned by at least 50 registered voters who are county residents. If the creation of the healthcare district is approved, the county judge, each county commissioner and the governing bodies of the four most populous municipalities each appoint one director. Budget approval and budget amendments are subject to both the health district board and the Hidalgo County Commissioners Court. Unless a higher rate is approved at an election as provided by Section 1122.252(a), the tax rate is limited to 25 cents per \$100 valuation. As soon as practical after creation of the healthcare district, the Hidalgo County Commissioners Court shall transfer all operating and reserve funds budgeted by the County for indigent health care assistance. Healthcare District funds shall be used for district purposes, including supporting the School of Medicine at UTRGV, and training physicians, nurses and other health care professionals.

**Impact:** This bill provides a significant funding source for supporting the UTRGV medical school, training physicians and other health care professionals, and improving health care services for local residents.

**Implementation:** U.T. System and UTRGV will want to begin working on implementation plans with local officials.

**Effective:** June 10, 2015

Allene Evans

**HB 2131** by Davis, et al. and Huffman

Relating to the designation of centers of excellence to achieve healthy fetal outcomes in this state.

This bill adds a new Chapter 32 to the Texas Health and Safety Code, entitled Centers of Excellence for Fetal Diagnosis and Therapy, which requires the Texas Department of Health (TDH), in consultation with the Perinatal Advisory Council (established under §241.187 of the Health and Safety Code) to designate as centers of excellence for fetal diagnosis and therapy one or more health care entities in this state that provide

comprehensive maternal, fetal and neonatal health care for women with high risk pregnancies complicated by one or more fetuses with anomalies, genetic conditions, or compromise caused by a pregnancy condition or exposure.

TDH, in consultation with the Perinatal Advisory Council, will appoint a subcommittee of that advisory council to advise the advisory council and THD on the development of rules related to the designations made by TDH. The subcommittee, specifically required to advise the council and THD regarding the criteria necessary for a health care entity to receive a “center of excellence for fetal diagnosis and therapy” designation.

Priority Considerations for Center Designations. Rules relating to designation criteria must prioritize health care entities that:

- offers fetal diagnosis and therapy through an extensive multi-specialty clinical program that is affiliated and collaborates extensively *with a medical school in this state* and an associated hospital facility that provides advanced maternal and neonatal care in accordance with the rules established under § 241.183(a)(1) (requiring the executive commissioner, in consultation with TDH, to adopt rules assigning levels of care for neonatal and maternal care to be assigned to hospitals)(emphasis added);
- demonstrates a significant commitment to research in and advancing the field of fetal diagnosis and therapy;
- offers advanced training programs in fetal diagnosis and therapy; and
- integrates an advanced fetal care program with a program that provides appropriate long-term monitoring and follow-up care for patients.

Qualifications for designation. Rules relating to designation must ensure that a designation is based directly on a health care entity’s ability to:

- implement and maintain a cohesive multidisciplinary structure for its health care team;
- monitor short-term and long-term patient diagnostic and therapeutic outcomes; and
- provide for THD annual reports containing aggregate data on short-term and long-term diagnostic and therapeutic outcomes as requested or required by TDH, and make those reports available to the public.

The Executive commissioner is required to adopt rules related to designations not later than March 1, 2018.

The Department of State Health Services is required to begin awarding designations to health care entities establishing eligibility not later than September 1, 2018.

**Impact:** HB 2131 provides an avenue for UT Health Institutions to receive the designation of “center of excellence for fetal diagnosis and therapy.”

**Implementation:** Potentially qualifying institutions who seek the designation should monitor TDH’s progress on rule development and requirements, deadlines for the designation, and the process that is required to establish that the institution is eligible for the designation.

**Effective:** September 1, 2015

Bridget McKinley

[HB 910](#) by Phillips, et al. and Estes, et al.

Relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.

Omits the word “concealed” in Subchapter H, Chapter 411 of the Government Code, which is the subchapter authorizing a license to carry concealed handguns, so that a person can receive a license to openly carry a handgun. Also omits the word “concealed” in various state statutes dealing with concealed handguns such as the Alcoholic Beverage Code, Family Code, and the Code of Criminal Procedure.

Amends Section 411.2032(b), Government Code, to provide that:  
“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Education Code.

An institution of higher education may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Sections 30.06 or 30.07, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under this subchapter and lawfully possesses the firearm or ammunition:

- on a street or driveway located on the campus of the institution; or
- in a parking lot, parking garage, or other parking area located on the campus of the institution.

Amends Section 52.061, Labor Code, to provide that:

A public employer may not prohibit an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned



motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Amends Section 52.062, Labor Code, to provide that:

Section 52.061 does not:

- authorize a person who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law;
- apply to a vehicle owned or leased by a public employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties; or
- prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Amends Sections 30.06 (a), (c)(3), and (d), Penal Code, to provide that:

A license holder commits an offense if the license holder:

- carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder with a concealed handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication" means:

- (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or
- (B) a sign posted on the property that:

- (i) includes the language described by Paragraph (A) in both English and Spanish;

- (ii) appears in contrasting colors with block letters at least one inch in height; and
- (iii) is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Amends Chapter 30, Penal Code, by adding Section 30.07, to provide that:

A license holder commits an offense if the license holder:

- openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

In this section:

- "Entry" has the meaning assigned by Section 30.05(b).
- "License holder" has the meaning assigned by Section 46.035(f).
- "Written communication" means:
  - (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
  - (B) a sign posted on the property that:
    - (i) includes the language described by Paragraph (A) in both English and Spanish;
    - (ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

Amends Section 46.02(a-1), Penal Code, to provide that:

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster.

Amends Sections 46.035 (a)-(d), (g)-(j), and adds Subsection (a-1), Penal Code, to provide that:

- (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person and intentionally displays the handgun in plain view of another person in a public place, unless the handgun was partially or wholly visible and was carried in a shoulder or belt holster by the license holder.
- (a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person and intentionally displays the handgun in plain view of another person:
  - on the premises of an institution of higher education; or
  - on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.
- (b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person:

- (7) on the premises of a business that derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption.
  - (8) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. However, it is not an offense on the premises where a collegiate sporting event is taking place if the license holder was not given effective notice under Penal Code section 30.06.
  - (9) on the premises of a correctional facility.
  - (10) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing facility administration, as appropriate. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
  - (11) in an amusement park. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07; or
  - (12) on the premises of a church, synagogue, or other established place of religious worship. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
- (c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, at any meeting of a governmental entity. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
  - (d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.
  - (g) An offense under this section is a Class A misdemeanor, unless the offense is committed under Subsections (b)(1) or (b)(3), in which event the offense is a felony of the third degree.
  - (h) It is a defense to prosecution under Subsections (a) or (a-1) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9, Penal Code.
  - (j) Subsections (a), (a-1), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

The change in law made by this Act relating to the authority of a license holder to openly carry a holstered handgun applies to the carrying of a handgun on or after the effective date of this Act by any person who:

- holds a license issued under Subchapter H, Chapter 411, Government Code, regardless of whether the person's license was issued before, on, or after the effective date of this Act; or
- applies for the issuance of a license under that subchapter, regardless of whether the person applied for the license before, on, or after the effective date of this Act.

**Impact:** Open carry of handguns is prohibited in UT institution buildings or a portion of a building, and on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution. However, open carry will be legal just outside the boundaries of UT institutions in areas with high concentrations of students or employees in retail establishments, social gathering locations, or in private housing. These areas are also routinely patrolled by UT institution police and UT institution police regularly engage in law enforcement and order maintenance activities in these areas.

**Implementation:**

- Training for UT System and UT institution police.
- Educational materials/website for employees and students.

**Effective:** January 1, 2016

Jack C. O'Donnell

[SB 11](#) by Birdwell, et al. and Fletcher

Relating to the carrying of handguns on the campuses of and certain other locations associated with institutions of higher education; providing a criminal penalty.

This act amends various statutes, which will be addressed separately herein:

Chapter 411 of the Government Code revisions

Amends Subchapter H, Chapter 411 of the Government Code by adding section 411.2031 which provides that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by an institution of higher education.

Bars an institution of higher education from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on all land and buildings owned or leased by the institution of higher education, except that:

- an institution of higher education may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.
- an institution of higher education shall establish reasonable rules, regulations, or other provisions that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institution may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The institution must give effective notice under Section 30.06, Texas Penal Code, with respect to any portion of a premises on which license holders may not carry.

The Board of Regents shall review the institution’s rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules, regulations, or other provisions are established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution’s rules, regulations, or other provisions.

The institution shall widely distribute its rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.

Not later than September 1 of each even-numbered year, each institution of higher education shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution, and that explains its reasons for establishing these provisions.

#### Section 411.208 of the Government Code

Amends Section 411.208 (a), (b), and (d), and adds Subsection (f) of the Texas Government Code to provide that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

A court may not hold the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor liable for damages caused by:

- an action authorized under Subchapter H, Chapter 411 of the Government Code or a failure to perform a duty imposed by Subchapter H; or
- the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under Subchapter H.

A cause of action in damages may not be brought against the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under Subchapter H, Chapter 411 of the Government Code.

The immunities granted above in this section do not apply to:

- an act or a failure to act by the state, an agency of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary; or
- any officer or employee of an institution of higher education who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

Section 46.03 of the Texas Penal Code

Amends Section 46.03 (a) and (c) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm

- on the physical premises of an educational institution, any grounds or building on which an activity sponsored by an educational institution is being conducted, or a passenger transportation vehicle of an educational institution, whether the educational institution is public or private, unless:

- pursuant to written regulations or written authorization of the institution; or
- the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.
- on the premises of a polling place on the day of an election or while early voting is in progress.

#### Section 46.035 of the Texas Penal Code

Amends Section 46.035 (f), (g), (h), and (j), and adds Subsections (a-1), (a-2), (a-3), and (l) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A license holder commits a Class A misdemeanor offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder’s person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

- on the premises of an institution of higher education; or
- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.
- This offense does not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.
- It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

A license holder commits a Class A misdemeanor offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by institution rules, regulations, or other provisions, provided the institution gives effective notice under Section 30.06 with respect to that portion. This offense does



not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission. It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

It is not an offense for a license holder to carry a concealed handgun on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.

**Impact:** **SB 11** allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by the UT System or all UT institutions. It also requires the UT institutions to establish reasonable rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

The UT System, all UT institutions, or an officer or employee of either, may be held liable for damages for an act or a failure to act concerning actions authorized or duties imposed by this campus carry law if the act or failure to act was capricious or arbitrary.

Any officer or employee of the UT System or any UT institution who possesses a handgun on campus, and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage, may be held liable for damages.

Makes it a crime for a license holder to intentionally or knowingly display a handgun in plain view of another person:

- on the premises of UT System or any UT institution; or
- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of UT System or any UT institution.

Makes it a crime for a license holder to intentionally carry a concealed handgun on a portion of a building located on campus on which the carrying of a concealed handgun is prohibited by a rule of the institution, provided the institution gives effective notice under Texas Penal Code Section 30.06 with respect to that portion.

**Implementation:** Requires the UT institutions to establish reasonable rules that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.

The Board of Regents shall review the institution's rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules are

established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution's rules.

Each institution shall widely distribute its rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.

Not later than September 1 of each even-numbered year, each institution shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules regarding the carrying of concealed handguns on the campus of the institution and that explains its reasons for establishing these provisions.

Training for UT System and UT institution police should be provided.

Educational materials will need to be provided for employees and students and, to the extent necessary UT System academic institutions may need to make modifications to current catalogs, publications, and websites

The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

**Effective:** August 1, 2016

Jack C. O'Donnell

**SB 373** by West and Rose

Relating to increased oversight by the Department of State Health Services of hospitals that commit certain violations.

- SB 373 amends Subchapter C, Chapter 241 of the Health and Safety Code to provide that if the Department of State Health Services finds that a hospital has committed a violation resulting in a potentially preventable adverse event reportable under Chapter 98 the Department shall require the hospital to develop and implement an approved plan to address deficiencies that may have contributed to the event
- The approved plan may include staff training and education, and increased supervision, staffing and reporting requirements and changes to hospital policies relating to public safety
- Careful and frequent compliance monitoring and enforcement by the Department is required.

**Impact:** UT health institutions are not licensed under Chapter 241, however, they may be affected to the extent that monitoring plans of other hospitals may be considered "standards of care."

**Implementation:** None.

**Effective:** September 1, 2015

Allene Evans

**SB 1574** by Uresti and Martinez

Relating to emergency response employees or volunteers and others exposed or potentially exposed to certain diseases or parasites and to visa waivers for certain physicians.

Immigration Waivers for Physicians

This bill amends Section 12.0127 of the Texas Health and Safety Code, Immigration Waivers for Physicians, to allow a request for waiver of the foreign country residency requirement for a qualified alien physician who agrees to practice in:

- an area that the Department of State Health Services (DSHS) determines is affected by an ongoing exposure to a disease that is determined reportable under section 81.048;
- a medically underserved area; or
- a health professional shortage area.

Accidental Exposure Testing

- This bill amends Article 18.22 of the Texas Code of Criminal Procedure (testing for communicable diseases following certain arrests) so that it provides a mechanism to require an arrestee to undergo testing for communicable diseases when an “emergency response employee” or volunteer came into contact with the person’s bodily fluids (previously only applied when “peace officers” were exposed).
  - “Emergency response employee” or volunteer means an individual acting in the course and scope of employment or service as a volunteer as emergency medical service personnel, a peace officer, a detention officer, a county jailer or a fire fighter.
  - The person performing the procedure or test shall make the results available to the local health authority and the designated “infection control officer” (see below) of the entity that employs or uses the services of the emergency response employee or volunteer. The local health authority or the designated infection control officer shall notify the emergency response employee or volunteer of the test result.
- This bill also adds sections 81.012 and 81.013 to the Texas Health and Safety Code which require that entities that employ or use the services of an emergency response employee or volunteer shall nominate a “designated infection control” officer and an alternate designated infection control officer to receive notification of a potential

exposure to a reportable disease from a health care facility. The infection control officer will:

- receive notification of a potential exposure to a reportable disease from a health care facility;
  - notify the appropriate health care providers of a potential exposure to a reportable disease;
  - act as a liaison between the entity's emergency response employees or volunteers who may have been exposed and the destination hospital of the patient who was the source of the potential exposure;
  - investigate and evaluate the potential exposure;
  - monitor all follow-up treatment provided to the affected emergency response employee or volunteer in accordance with applicable federal, state and local law.
- The entity that employs or uses services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health care facilities that the entity has a designated infection control officer or alternate officer.
  - Amends section 81.048 of the Texas Health and Safety Code (now titled Notification of Emergency Response Employee or Volunteer) to:
    - add “designated infection control officers” to the list of persons to whom medical or epidemiological information may be released.
    - add a negative test result to the information that shall be given to the emergency response employee or volunteer (previously only positive results were required to be reported).
    - require that the hospital provide notice of the possible exposure to the designated infection control officer.
  - Amends section 607.102 of the Texas Health and Safety Code to provide that emergency response employees and volunteers who are exposed to methicillin-resistant *Staphylococcus aureus* or a disease caused by a select agent or toxin identified or listed under 42 C.F.R. Section 73.3 to receive notification of the exposure in the manner provided under section 81.048 of the Texas Health and Safety Code (Notification of Emergency Personnel, Peace Officers, Detention Officers, County Jailers and Fire Fighters).
  - Amends section 81.095 of the Texas Health and Safety Code (Testing for Accidental Exposure) to:

- add “HIV and any other reportable disease” to the tests the hospital must take reasonable steps to conduct in the case of accidental exposure of a health care worker, an emergency response employee or volunteer or first responder who renders assistance at the scene of an emergency or during transport to the hospital (previously only required to test for hepatitis B or C).
- require the hospital to provide the test results to the local health authority and the designated infection control officer who will then inform the person exposed according to section 81.050 (h).
- Amends section 91.0955 of the Texas Health and Safety Code (Testing for Accidental Exposure of a Deceased Person) to require that following the report of an emergency response volunteer or employee or a first responder’s exposure to the blood or other bodily fluids of a person who dies at the scene of an emergency or during transport to the hospital, the hospital, certified EMS, justice of the peace, medical examiner or physician, on behalf of the person exposed, shall take reasonable steps to have the deceased person tested for reportable diseases and to report the results to the designated infection control officer or the local health authority (previously, justice of the peace and medical examiner were not included). If applicable, the department or local health authority shall report the results to the next of kin (previously all, including the hospital and the physician, had a duty to report the results to the next of kin under this section).
- Amends section 81.103 of the Texas Health and Safety Code (Confidentiality; Criminal Penalty) to add “designated infection control officer” to the list of persons to whom test result may be released without committing a criminal offense.
- Amends section 81.107 of the Texas Health and Safety Code to permit a health care agency or facility to perform a test for HIV without the person’s consent if an emergency response employee or volunteer has been accidentally exposed to the person’s blood or other bodily fluids.

**Impact:** With respect to the new physician immigration waiver provision, our UT Health Institutions and physicians will want to be aware of the new potential avenues for waiver of the foreign country residency requirement for qualified alien physicians. With respect to accidental exposure reporting, this bill greatly expands the list of persons that our UT Health Institutions and physicians must notify about a positive or negative test result for a reportable disease under the Texas Health and Safety Code so that notification is now required in the case of an emergency response employee or volunteer’s accidental exposure to blood or bodily fluids. It also significantly expands that list of diseases for which testing must be conducted and requires that the test results be reported to the “designated infection control officer” for the entity that employs or uses the services of the emergency response employee or volunteer. This is a new designation and reporting requirement.

**Implementation:** Our UT Health Institutions will need to educate our health care providers, particularly those who work in the emergency department and laboratory, about these new testing and reporting requirements and make sure that we have the appropriate network set up for testing, reporting and keeping records of entities' designated infection control officers when we are provided with that information. One possible avenue of implementation would be to use the already existing structure in place for accidental exposure testing and reporting relating to peace officers.

**Effective:** September 1, 2015

Bridget McKinley

[SB 1753](#) by Campbell and Davis

Relating to the identification requirements of certain health care providers associated with a hospital.

This bill amends Chapter 241 of the Health and Safety Code to require hospitals to use identification badges for licensed health care providers that list the type of license held by the provider (such as physician, dietician, licensed vocational nurse, nurse practitioner and other health care providers). This requirement is not required until September 1, 2019.

**Impact:** There is no direct impact on UTS or its health institutions as our hospitals are not licensed under Chapter 241. However, UTS hospitals generally meet chapter 241 requirements to the extent practical. The use of such badges can provide useful patient information and reduce patient misunderstanding and confusion.

**Implementation:** UTS health institutions should consider the extent to which they will voluntarily comply with this requirement.

**Effective:** September 1, 2015

Allene Evans

## **Student Issues**

[SB 1714](#) by Zaffirini and Howard

Relating to the release of student academic information by a public institution of higher education for certain purposes and the manner in which the information is used.

Currently, Texas Education Code Section 61.833 provides a process whereby public junior colleges, public state colleges, or public technical institutes (collectively defined as "lower-division institutions") may automatically award an associate degree to a student who was previously enrolled at the lower-division institution upon the receipt of a copy of the student's transcript from a public general academic teaching institution at which the student subsequently enrolled, if the transcript indicates the student has subsequently acquired sufficient credits to qualify for an associate degree from the lower-division institution.

Under the current statute, a public general academic teaching institution is required to contact each student who has transferred in from a lower-division college with at least 30 credit hours when that student has subsequently acquired a total of at least 66 credit hours. Then the institution must ask the student to consent to provide the transcript to the lower-division institution for review so that an associate degree can be awarded to the student by the lower-division institution.

The bill adds Section 51.9715 to the Education Code, authorizing UT System's academic teaching institutions to request any individual seeking to transfer in to the institution to provide written consent under which the applicant or student waives his or her right to have her education records maintained confidentially under the Family Educational Records Privacy Act ("FERPA"), either; 1) as part of the application process; or, 2) any time the subsequently-enrolled student requests that a copy of his or her official transcript be released to a third party. The consent will allow the institution to report the student's subsequent academic achievement back to a "reverse enrollment platform" that the National Student Clearinghouse is developing with UT Austin to automate the reporting and degree awarding process.

In addition, the bill amends Section 61.833 to change the type of information that the institutions will provide to a lower-division institution through the National Student Clearinghouse platform or another clearinghouse platform, after the student has completed 66 credit hours, with student consent, from a copy of the student's transcript to a report of the student's academic course, grade, and credit information. It allows that report to be made to a student clearinghouse, as well as all previously attended lower-division institutions.

**Impact:** UT System academic teaching institutions may now utilize two ways to attempt to get transfer students to consent to allow the institution to release their current education records to previously attended lower-division institutions. It adds the option of making these reports through the National Student Clearinghouse's reverse enrollment platform or another approved platform. The information will consist of the student's academic course, grade, and credit information, rather than the student's transcript.

**Implementation:** UT academic teaching institutions now have the option to begin requesting consent from transfer applicants at the time of application, and any time the student subsequently makes a third-party transcript request, as permitted by the new law, to allow the institution to report the student's academic institution to the reverse enrollment platform so previously attended lower-division institutions can check to see if the student has subsequently earned sufficient credit to support the award of an associate degree to the student by the lower-division institution. The institutions must also continue to contact each qualifying transfer student once that student earns a total of 66 credits to request consent to the release of the student's academic information to the platform at that time, as well. To comply with the new requirements, academic teaching institutions will have to adopt policies, procedures and forms for requesting FERPA-compliant written consent from students. For students who provide such consent, institutions will need to develop processes making the required releases to the clearinghouses or lower division colleges, as

applicable, that the student previously attended. It is also recommended that UT Austin ensure that the platform being developed in conjunction with the National Student Clearinghouse has a mechanism to ensure that the “lower-division institutions” that will be accessing former students’ information have the proper consent to access the participating students’ education records under FERPA.

**Effective:** June 16, 2015

Barbara M. Holthaus

**HB 699** by Nevárez, et al. and Uresti

Relating to requiring public institutions of higher education to establish a policy on campus sexual assault.

This bill amends the Education Code by adding Section 51.9363.

"Institution of higher education" has the meaning assigned by Section 61.003 of the Education Code (and thus applies to all UT System institutions). Each institution of higher education must adopt a policy on campus sexual assault. The policy must include (A) definitions of prohibited behavior; (B) sanctions for violations; and (C) the protocol for reporting and responding to reports of campus sexual assault. In addition, the policy must be approved by the institution's governing board before final adoption by the institution.

This bill further requires that each institution of higher education shall make the institution's campus sexual assault policy available to students, faculty, and staff members by: (1) including the policy in the institution's student handbook and personnel handbook; and (2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.

This bill also requires that each institution of higher education require each entering freshman or undergraduate transfer student to attend an orientation on the institution's campus sexual assault policy before or during the first semester or term in which the student is enrolled at the institution. Each institution is required to establish the format and content of the orientation.

Finally, this bill also provides that each biennium, each institution of higher education shall review the institution's campus sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary.

**Impact:** This bill impacts all UT System institutions requiring each to review and revise sexual assault policies and websites to ensure compliance with this bill. This bill also requires prior approval from the Board of Regents prior to adoption by each institution. Finally, these policies will require review each biennium. Currently, Board of Regents’ Rule 20201 requires that each institution’s rules and regulations for the governance of the institution and any related amendments (i.e., Handbook of Operating Procedures (HOPs)—which includes policies related to sexual harassment and misconduct) be approved and submitted to the appropriate Executive Vice Chancellor and the Vice Chancellor and



General Counsel. The bill, as written, does not account for this delegation of authority to the Executive Vice Chancellor and the Vice Chancellor and General Counsel for approval of HOPs. Therefore, the impact of this bill, as written, would require a revision to the Regents' Rule.

**Implementation:** This bill applies beginning the 2015 fall semester.

**Effective:** June 19, 2015

Melissa V. Garcia

[HB 4046](#) by Alvarado, et al. and Ellis

Relating to the confidentiality of student records.

The bill amends section 552.114 of the Texas Government Code to make all information submitted by or on behalf of an applicant, including a transfer student, to an institution of higher education that receives any state funds confidential. It also authorizes institutions to withhold applicant information that is subject to a request under the Texas Public Information Act (TPIA) without requesting an opinion from the Office of the Attorney General under the TPIA. However, the parents of an applicant may still access applicant information that was submitted by the applicant to the institution upon request.

**Impact:** All student education records maintained by System institutions, or by System Administration or a vendor acting on behalf of an institution, are subject to a federal privacy law, the Family Educational Records Privacy Act (FERPA). All information subject to FERPA is exempt from disclosure under the Texas Public Information Act (TPIA). However, information submitted by an *applicant* does not become subject to FERPA unless and until the applicant enrolls at the institution. Currently, applicant information submitted by individuals not yet, or never, admitted to the institution is subject to release under the TPIA. Applicant information is often highly sensitive and personal. Currently, before an institution can withhold applicant information that is the subject of a TPIA request, the issue must be briefed to the Office of the Attorney General for a ruling permitting the institution to withhold the applicant information. Under the bill, institutions can redact and withhold applicant information that is subject to a TPIA request without briefing the issue, which is the same way the institutions now handle TPIA requests for education records subject to FERPA.

**Implementation:** System Administration and System institutions will need to revise their policies and procedures for responding to TPIA requests for applicant's records. Some training may be required to ensure that the Public Information Coordinators and the offices that maintain applicant data (Registrar or Student Affairs) are handling requests consistently, particularly since parents will be able to access applicant information, while FERPA prohibits the release of any education records to even a minor child who is enrolled in a post-secondary educational program. Additionally, applicant information may need to be addressed in the confidentiality provisions of some contracts on a go-forward basis.

OGC has already amended the Joint Admissions Medical Programs (JAMP) contracts with the medical schools and other institutions affected by this change.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 197](#) by Price, et al. and Nelson

Relating to requiring certain public institutions of higher education to post information regarding mental health resources on the institution's Internet website.

HB 197 requires institutions of higher education to maintain a dedicated web page on the institution's Internet website dedicated solely to the information regarding the mental health resources available to students at the institution. The web page must include the address of the nearest local mental health authority.

**Impact:** Many UT System institutions already have this information on their website, but it may not be on a dedicated page.

**Implementation:** Both the general academic and the health-related institutions must review their respective websites for posting of the required information on a dedicated web page. The law requires compliance as "soon as practicable."

**Effective:** September 1, 2015

Steve Collins

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## Funding

[HB 7](#) by Darby, et al. and Nelson

Relating to certain fiscal matters affecting governmental entities; reducing or affecting the amounts or rates of certain taxes, assessments, surcharges, and fees.

HB 7 is a broad bill focused on ensuring that statutorily dedicated revenue is used solely for the purposes for which it is dedicated and, to that end, eliminates or redirects a number of fees and charges. Although that is the focus of the bill, the bill includes many matters that affect the dedication and use of state fund balances and state fees and charges. Of interest to U.T. System and System institutions are the following provisions:

Governor's University Research Initiative: The bill creates the Governor's University Research Initiative (GURI) and repeals the existing Texas Emerging Technology Fund. The text is *similar* to text in SB 632, also signed into law and effective 9/1/2015. (The text of GURI as enacted by SB 632 is identical to provisions also found in HB 26.) Important differences between HB 7 and SB 632/HB 26 will need to be resolved, however:

- HB 7 creates an advisory board appointed by the governor to review and recommend approval or disapproval of applications; SB 632/HB 26 does not.
- SB 632/HB 26 requires the recruit to be a Nobel laureate or national academy member; HB 7 allows awards to recruit as a distinguished researcher a person who is a member of an equivalent honorific organization.
- HB 7 defines eligible institution to include any health-related institution, including medical schools such as the medical schools at UT Austin, UT RGV, and any public health science center such as UT Health Science Center Tyler; SB 632/HB 26 includes only institutions that are "medical and dental units," a defined term that excludes UTHSC Tyler and the medical schools that are part of academic institutions.
- HB 7 requires fully funding timely applications before funding late applications or partially funding applications; SB 632/HB 26 does not.
- HB 7 expressly prohibits a GURI grant being used as a basis to reduce appropriations to the institution; SB 632/HB 26 does not.
- HB 7 limits awards to recruitment of researchers in science, technology, engineering, math, or medicine; SB 632/HB 26 to give priority to those fields.
- HB 7 provides detailed criteria for awards; SB 632/HB 26 does not.
- HB 7 expressly authorizes awards for recruitment of researchers distinguished in basic, transactional, or applied research; SB 632/HB 26 does not.
- HB 7 provides additional criteria for evaluating proposals, including the likelihood that the recruit will not accept a position but for the grant, the extent of interdisciplinary and collaborative research, and the commercialization track record of the recruit; SB 632/HB 26 does not.
- HB 7 preserves the confidentiality of information that would identify the recruit that is the subject of a grant proposal; SB 632/HB 26 does not.
- SB 632/HB26 contains a provision (Sec. 62.166(d), Education Code) that provides for elimination of further obligations of the recipient of an Testing Experience and

Functional Tools (TEFT) grant if the grant money has been fully distributed and the entity “has fully performed all specific actions under the terms of the contract.” HB 7 has no similar provision.

In repealing the TEFT, HB 7 provides that the fund balances may only be appropriated for the Texas Research Incentive Program (TRIP), the Texas Research University Fund (created by HB 1000), GURI, the Texas Enterprise Fund, and the comptroller of public accounts for expenses in managing the remaining TEFT portfolio.

The existing portfolio of TEFT would be managed by and liquidated by the Texas Safekeeping Trust Company.

Medical School Tuition Set Aside: HB 7 repeals Section 61.539, Education Code, which requires an institution of higher education to set aside 2% of tuition charges for each student registered in a medical school. The tuition set-aside provided revenue for a physician loan repayment program, which continues to be funded from other sources. The corresponding gain to medical schools is estimated to be \$1.8 million.

Trauma Facilities and Emergency Medical Services Account: HB 7 abolishes the Regional Trauma Account and transfers the balance (\$96.5 million) to the Trauma Facilities and Emergency Medical Services Account (TFEMSA). Revenue from red light cameras previously deposited in the Regional Trauma Account is redirected to the TFEMSA (\$32.2 million biennial revenue). HB 7 reduces surcharges under the Driver Responsibility Program, resulting in an unknown loss of revenue to TFEMSA.

Research on Sexual Assault and Domestic Violence: HB 7 amends Section 420.008(c), Government Code, to permit sexual assault program revenue to be used to fund the Bureau of Business Research at U.T. Austin to conduct research on sexual assault and domestic violence.

**Impact:** The creation of GURI provides a significant opportunity for System institutions to compete for awards to recruit distinguished researchers. The abolition of TEFT may provide some System institutions with current awards to wind up compliance with award contracts more easily.

**Implementation:** Institutional business officers for medical schools must adjust billing and accounting programs to account for elimination of the 2% tuition set-aside of medical school. The provost or other appropriate officer should coordinate the institution’s prompt application for funding from GURI, although the governor’s office will likely be deliberate in preparing for implementation of the program.

**Effective:** September 1, 2015

Steve Collins

**HB 2** by Otto, et al. and Nelson

Relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.

HB 2 is a “supplemental” appropriations bill, making appropriations that authorize expenditure of funds beginning immediately during the current state fiscal year. The bill appropriates approximately \$300 million in general revenue and another \$265 million in federal funds for various purposes.

Of particular interest to U.T. System and system institutions:

Sections 12 and 13 appropriate to the Health and Human Services Commission (HHSC) \$180 million for Medicaid acute care services, and another \$193 million for the purpose of adjusting Medicaid capitation payments made to managed care organizations to account for provider fees under the Affordable Care Act. For FY ending 8/31/2015.

Section 15 appropriates \$768 million to the Teacher Retirement System for the TRS Care shortfall. For FY ending 8/31/2015.

Section 16 appropriates \$4.5 million to U.T. Austin for the Bureau of Economic Geology (BEG) for the purchase and deployment of seismic equipment, maintenance of seismic networks, and modeling of reservoir behavior for systems of wells in the vicinity of faults. The bill requires the BEG to use an amount determined by an advisory committee to enter into collaborative research relationships with other universities in Texas, including the Texas A&M Engineering Experiment State, for the modeling and for other data analysis. The advisory committee is appointed by the governor. For two-year period ending 6/20/2017.

Section 19 appropriates \$8.2 million to UTMB for the Bio-Containment Critical Care Unit. For two-year period ending 6/20/2017.

Section 21 appropriates \$42.5 million to the Texas Department of Criminal Justice (TDCJ) for correctional managed healthcare. For FY ending 8/31/2015.

**Impact:** U.T. System institutions benefit directly and indirectly from the described appropriations, particularly the health-related institutions providing patient care to Medicaid and UTMB, which has the bio-containment critical care unit and provides correctional managed healthcare for TDCJ prisoners.

**Implementation:** No general implementation requirements, except U.T. Austin and the BEG will need to learn of the governor’s appointments to the advisory committee and begin preparations for appropriate collaborative research agreements.

**Effective:** June 20, 2015

Steve Collins

**HB 100** by Zerwas, et al. and Seliger

Relating to authorizing the issuance of revenue bonds to fund capital projects at public institutions of higher education.

HB 100 amends Chapter 55 of the Education Code and is the omnibus tuition revenue bond (“TRB”) bill authorizing University Systems to issue various amounts of TRBs for construction and renovation projects. In addition to the authorizations for TAMU, UH, TSU, UNT, TWU, MWS, SFA, TT and TSU, TSTA Systems, the University of Texas System would be authorized to issue the following TRBs:

UT Austin:	\$75 million for Welch Hall renovations
UTRGV:	\$36.432 million for a multipurpose academic center, Brownsville
	\$30.6 million for engineering studies building, Edinburg
UTSW:	\$80 million for vivarium and academic and laboratory facilities
UTSHC-SA:	\$80 million for facilities renewal and renovation
MDACC:	\$70 million for Shiekh Zayed Bin Sultan Al Nahyan Building
UTMB:	\$67.8 million for health education center
UTA:	\$70 million for science and engineering innovation research building
UTD:	\$70 million for engineering building
UTEP:	\$70 million for interdisciplinary research facility
UTSA:	\$70 million for instructional science and engineering building
UTT:	\$60 million for STEM building
UTHSC-H:	\$80 million for renovation and modernization of educational and research facilities
UTHSC-T:	\$14.8 million for renovation and modernization of educational and research facilities
UTPB:	\$48 million for engineering and kinesiology buildings

**Impact:** HB 100 authorizes UT System to issue a total of \$922.632 million in TRBs.

**Implementation:** The Board of Regents must approve the addition of the TRB projects to the CIP and authorize the issuance of the TRBs by the Office of Finance. The Office of Business Affairs, along with the Office of Academic Affairs and the Office of Health Affairs, should coordinate with the Chief Business Officers on each campus to develop the total project cost and identify any other needed funding to be presented to the Board for consideration.

**Effective:** September 1, 2015

Jim Phillips

**HB 495** by Howard and Hinojosa

Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.

Sections 63.202(f) and (g) of the Education Code are amended by extending the award period from the state fiscal biennium on August 31, 2017 and the fiscal biennium ending on August 31, 2019.

This bill also provides that Subsections (f) and (g) do not expire until September 1, 2019.

**Impact:** This bill impacts UT System's institutions that receive funding from the permanent health fund for the nursing, allied health, and other health-related programs and should be aware of the extension periods.

**Implementation:** U.T. institutions should be aware of these changes due to the potential fiscal impact.

**Effective:** May 29, 2015

Melissa V. Garcia

**HB 1000** by Zerwas, et al. and Seliger

Relating to state support for general academic teaching institutions in this state.

HB 1000 revises and reorganizes the funding of research at general academic institutions of higher education into three tiered programs.

The former Competitive Knowledge Fund becomes the Texas Research University Fund. In the revised fund, only UT Austin and Texas A&M University will meet the standard for participation of total research expenditures of \$450 million annually. Emerging research institutions, including UT Arlington, UT Dallas, UT El Paso, and UT San

Antonio, are not eligible. Amounts appropriated to UT Austin and Texas A&M will be based on annual research expenditures for the preceding three state fiscal years.

HB 1000 creates a new fund, the Core Research Support Fund, for which eligibility is restricted to institutions designated as an emerging research institution. Amounts will be appropriated to eligible institutions, with 50 percent based on average annual restricted research expenditures for the preceding three state fiscal years, and 50 percent based on total annual research expenditures the preceding three state fiscal years. The money must be used for educational and general activities that promote increased research capacity.

The former Research Development Fund becomes the Texas Comprehensive Research Fund, supporting research at institutions that are not eligible for the other two funds. Amounts appropriated to eligible institutions will be based on annual restricted research expenditures for the preceding three state fiscal years. The money must be used for educational and general activities that promote increased research capacity.

**Impact:** HB 1000 formalizes a structure reflected in the General Appropriations Bill. The Legislature appropriated \$147.1 million to support the Texas Research University Fund (TRUF) , \$117.1 million for the Core Research Support Fund, and \$14.3 million for the Comprehensive Research Fund. This represents an increase of \$35 million in the Texas Research University Fund and \$10 million for the Core Research Support as compared to the amounts appropriated in the 2014-15 biennium. Although emerging research institutions that had made an initial contribution to the former Competitive Knowledge Fund did not receive a refund of that money, the increased amount appropriated to the Core Research Support Fund offset that “loss.”

**Implementation:** No specific implementation needs, except appropriate institutional business officers need to be aware of changed names and funding streams attached to the appropriations.

**Effective:** September 1, 2015

Steve Collins

### **Financial Management**

**HB 483** by Capriglione, et al. and Kolkhorst

Relating to the establishment and administration of a state bullion depository; authorizing fees.

HB 483 authorizes the Comptroller of Public Accounts to establish and administer a bullion depository to serve as a custodian of certain precious metal bullion and specie acquired by the state, a state agency, political subdivision or other instrumentality of the state. Use of the depository is not mandatory by state entities but would be available for use by such entities as well as by other persons, either acting in their own right or as a fiduciary or trustee, financial institutions, business and nonprofit corporations and charitable or educational corporations or associations.

The depository would establish processes and a regulatory and administrative framework for the custody of deposits, transfers of payments and settlements in precious metals denominations, and a system of fees, service charges and penalties. Revenues collected by the depository would be added to the general revenue fund.

Contracts, which could be amended unilaterally by the depository, or bilaterally between the parties, would be required. A lien is created on all deposits to satisfy fees and other obligations owed to the depository and amounts owed to the depository may be transferred from an account without notice or consent to satisfy the obligations.

The depository shall use private depository agents to conduct retail transactions on its behalf. Depository agents must be licensed and will be required to submit reports of all transactions. Various sections of Chapter 151, Finance Code, are amended to include provisions related to licensing of private depository agents.

**Impact:** After the Comptroller establishes the bullion depository, entities such as The University of Texas Investment Management Company (UTIMCO) would have the option to use it for precious metals holdings for which a custodian is required.

**Implementation:** UTIMCO should monitor the actions of the Comptroller to implement the bullion depository and, after it is established, assess whether it presents a cost effective alternative for any precious metals holdings it may possess.

**Effective:** June 19, 2015

Jim Phillips

### **Purchasing and State Contracts**

[HB 1443](#) by Geren and Birdwell

Relating to the Texas Identification Number system.

Section 403.039 of the Government Code requires the Comptroller to establish a Texas Identification Number (TIN) system to be used by all state agencies (including institutions of higher education) as the primary identification system for persons - other than state employees - who supply property or services to the agency for compensation or reimbursement. Such TINs are to be based on the Comptroller's taxpayer identification number.

HB 1443 changes Section 403.039 so that it no longer exempts state employees from the requirement to be identified using TINs, as well as to no longer require TINs to be based on the Comptroller's taxpayer identification number.

**Impact:** UT System and the UT institutions will need to make all necessary modifications in how TINs are established and used as a result of HB 1443's changes.



**Implementation:** The business, purchasing, employee benefits/services, and finance offices at UT System and the UT institutions must determine how the use of TINs by such offices will be affected by the changes made by HB 1443.

**Effective:** May 21, 2015

Scott Patterson

[HB 2667](#) by Ashby and Eltife

Relating to the abolishment of certain programs administered by the Texas Economic Development Bank.

HB 2667 repeals the following laws establishing state economic development programs:

- Subchapter N in Chapter 481 of the Government Code, which requires the Texas Economic Development Bank (“Bank”) to establish a linked deposit program encouraging commercial lending for the development of (1) small businesses in enterprise zones; (2) historically underutilized businesses; (3) medium-sized businesses; (4) child-care services provided by and activities engaged in Texas by nonprofit organizations; and (5) quality, affordable child-care services in Texas.
- Chapter 503 of the Local Government Code, which establishes the Texas Small Business Industrial Development Corporation, which issues bonds and finances public infrastructure projects and private economic development in Texas.

**Impact:** HB 2667 would affect UT System or the UT institutions to the extent that they are involved with any of the state economic development programs repealed by that bill.

**Implementation:** The business offices at UT System or the UT institutions must determine if any of their offices or programs are or have been involved with the state economic development programs repealed by HB 2667 and, if so, the impact of such repeal on those offices or programs.

**Effective:** September 1, 2015

Scott Patterson

[HB 3014](#) by Parker, et al. and West

Relating to the administration of "pay for success" contracts for state agencies.

This bill adds Section 403.110 Success Contract Payment Trust Fund, Subchapter G, Chapter 403 of the Government Code, establishing a trust fund (not to exceed \$50 million at any time) with the Comptroller as trustee to make payments due under success contracts entered into jointly by the Comptroller and a state agency. Success contracts must (1) condition the majority of the payments on the contractor meeting or exceeding specified

performance measures, (2) define an objective procedure by which an independent evaluator will determine whether the performance measures have been met or exceeded, and (3) include a schedule of amounts and timing of payments to a contractor that conditions payments on meeting or exceeding performance measures.

A success contract may not be executed unless (a) the state agency and the Legislative Budget Board certify the proposed contract is expected to result in significant performance improvements and budgetary savings for the state agency, and (b) the Legislature has appropriated sufficient funds to the trust fund. Each session the state agency must report certain information about success contracts to the Legislature.

The Comptroller may promulgate rules to administer the trust fund and success contracts.

Chapter 403 of the Government Code includes several definitions of “state agency,” including definitions in Sections 403.0165, 403.013, 403.039, 403.055, 403.0551 and 403.241. Each definition either specifically includes institutions of higher education (IHEs) or is broad enough to appear to include IHEs.

**Impact:** Although new Section 403.110 does not define the term “state agency,” it appears that UT institutions may be able to participate with the Comptroller in success contracts to be paid with monies in the success contracts trust fund.

**Implementation:** Educate UT institution administrators about success contracts and monitor Comptroller rule making related to success contracts for impact on UT institutions.

**Effective:** September 1, 2015

Dana Hollingsworth

[HB 3342](#) by Kuempel and Eltife

Relating to interstate compacts and cooperative agreements relating to state purchasing.

This bill amends Section 2156.181 Interstate Compacts and Cooperative Agreements for Procurements, Subchapter D Interstate Compacts Procedure, Chapter 2156, Government Code, to expand the authority of the Comptroller related to compacts, interagency agreements or cooperative purchasing agreements. Section 2156.181(a-1) prohibits those compacts, interagency agreements or cooperative purchasing agreements from being used by the Comptroller to purchase engineering or architectural services.

This bill also authorizes the Comptroller to adopt rules to implement Section 2156.181.

**Impact:** To the extent UT institutions use compacts, interagency agreements or cooperative purchasing agreements entered into by the Comptroller, this bill may impact those procurements by UT institutions.

**Implementation:** Notify UT administrators, including purchasing and contracting personnel, of the impact of this bill.

**Effective:** September 1, 2015

Dana Hollingsworth

[HB 1295](#) by Capriglione, et al. and Hancock

Relating to the disclosure of research, research sponsors, and interested parties by persons contracting with governmental entities and state agencies.

Section 1 creates a new Section 51.954, Education Code, to require a faculty member or other employee of an IHE who conducted the research to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

Several definitions are included in Section 51.954, e.g., “public communication”, “sponsor”, “institution of higher education” and “sponsored research”. Specifically, “sponsored research” is defined to mean research conducted under a contract with or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research AND “... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research. “Public communication” is defined to mean “oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information. Please note that the language of section 1 is also contained in SB 20.

Section 2 of the bill creates a new section 51.955 of the Education Code, entitled, “Disclosure of Publicly Funded Research.”

A state agency that expends appropriated funds may not do the following:

- Enter into research contracts with institutions of higher education if that contract contains a provision precluding public disclosure of any final data generated or produced in the course of executing the contract, unless the agency reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party; or
- Adopt a rule that is based on research conducted under a contract entered into with an institution of higher education unless the agency has made the results of the research and all data supporting the research publicly available, or reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party.

The prohibition in item 1 above does not apply to CPRIT.

Institutions of higher education must respond to requests for information under the public information act.

The section then includes language to state that it does not require public disclosure of personal identifying information or any other information the disclosure of which is otherwise prohibited by law.

Section 3 of the bill creates section 2252.908 of the Government Code, which requires recipients of state and local government agency contracts to file a disclosure statement with the contracting agency at the same time the recipient submits the signed contract to the agency.

This bill applies to a contract of a governmental entity or state agency (including higher ed. institutions) that:

- has a value of at least one million dollars, or
- requires an action or vote by the governing body of the state agency before the contract may be signed.

This section expressly does not apply to:

- an institution of higher education's sponsored research contracts, or
- interagency contracts between institutions of higher education and a state agency, or
- a contract related to health and human services if the value of the contract cannot be determined at the time the contract is executed and any qualified vendor is eligible for the contract.

For contracts that this section does apply to, the state agency may not enter into the contract unless the person with whom the agency is contracting submits a "disclosure of interested parties" to the state agency at the time the person submits the signed contract to the state agency.

The "disclosure of interested parties" is a form that will be created by the Texas Ethics Commission. The form must include:

- A list of each "interested party" for the contract of which the contracting person is aware; and
- The signature of the contracting person, or agent of the contracting person, acknowledging that the disclosure is made under oath under penalty of perjury.

An "interested party" is defined as a person with a controlling interest in a business entity, or who actively participates in facilitating a contract or negotiating the terms of a contract.

Once a state agency receives a disclosure of interested parties, the state agency must submit a copy of the disclosure to the Texas Ethics Commission.

The Ethics Commission is empowered to adopt rules to implement this section.

**Impact:**

Section 1: Although the statutory disclosure requirement is new, the disclosure of the identity of sponsors of research in publications and professional presentations is the common practice for sponsored research. Faculty will need to be aware of the expanded definition of “public communication” to ensure compliance with the statutory requirement. The statute does not impose a sanction for failure to disclose and does not expressly require institutions to monitor faculty compliance.

Section 2: Section 51.955 has narrow application in that it applies only to contracts for research on behalf a state agency, and the institutions performing the research will benefit from the exceptions to the disclosure requirement designed to protect the IP rights of the institution and the publication rights of the faculty member performing the research.

Section 3: For applicable contracts, System and the institutions will be prohibited from entering into a contract with a value of a million dollars or more unless the appropriate disclosure form has been filed. In addition, any contract requiring a vote of the board of regents regardless of cost must also have a disclosure form attached. UT System will also be required to submit these forms to the Texas Ethics Commission within 30 days.

**Implementation:**

Section 1: The President, Research Office, or other appropriate office should advise faculty engaged in sponsored research of the new disclosure requirements.

Section 2: The Research Offices at each institution should review their contracting processes to ensure that research agreements with state agencies that expend appropriated funds adequately address disclosure issues in accordance with section 51.955.

Section 3: Procurement Offices should review their procedures and work with UT System OGC to ensure that their purchasing procedures comply with the new requirements of Section 2252.908.

**Effective:** September 1, 2015

Jason King

[SB 20](#) by Nelson, et al. and Price, et al.

Relating to state agency contracting.

This summary represents UT System’s current analysis of the provisions of SB 20. Discussions with stakeholders are ongoing. As a result, this analysis is subject to change.

Section 2: Adds new Section 403.03057, Government Code, to require the Comptroller (in cooperation with the Governor’s budget and policy staff) to conduct a study examining the feasibility and practicability of consolidating state purchasing and procurement into fewer state agencies or one agency. The Comptroller must report the findings of the study to various State officials no later than December 31, 2016. Section 403.03057 expires January 1, 2018.

Section 3: Adds new Section 441.1855, Government Code, requiring a state agency to retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and permitting a state agency to destroy the contract and documents only after the seventh (7th) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved. Section 441.180(9) defines “state agency” to include institutions of higher education (IHEs).

Sections 4 and 27: Section 4 adds new Section 572.069, Government Code, to create a “revolving door” prohibition for state officers and employees [ref. Section 572.002, Government Code, for definitions of state agency, state employee and state officer]. A state officer or employee who participated on behalf of a state agency in (1) a procurement, or (2) contract negotiation involving a person, may not accept employment from that person before the second (2nd) anniversary of the date the officer’s or employee’s service or employment with the state agency ceased.

Section 27 states that new Section 572.069 applies only to state officers and employees who cease state service on or after September 1, 2015.

Neither Section 4 nor Section 27 includes a criminal penalty or other enforcement provision.

Sections 15 and 16: Existing Section 2157.068, Government Code, authorizes DIR to (a) procure “commodity items” for state agencies, and (b) promulgate regulations requiring state agencies to purchase “commodity items” under a DIR contract pursuant to Section 2155.068.

Section 15 adds Sections 2157.068(e-1) and (e-2) requiring state agencies to follow specified competitive procedures when purchasing “commodity items” from the contract list developed by DIR under Section 2157.068, and prohibiting purchases for more than \$1 million under Section 2157.068.

Section 16 adds Section 2157.0685, Government Code, requiring state agencies entering into “commodity item” contracts under Section 2157.068 that require the agency to develop

and execute a statement of work (SOW) to initiate the services under that contract to: (1) consult DIR before submission of the SOW to the vendor, (2) post each SOW on the agency's website in compliance with DIR regulations, and (3) prohibit the agency from making payment under the SOW unless DIR first signs the SOW.

Section 17 and 18:

Section 17 amends Section 2261.001(a), Government Code, to exclude new Subchapter F, Chapter 2261, from the IHE exemption to the requirements of Chapter 2261. Section 18 adds new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts to Chapter 2261 providing that (notwithstanding Section 2261.001), Subchapter F applies to IHEs acquiring goods/services under Section 51.9335 or 73.115, Education Code. New Subchapter F:

- Requires disclosure of potential conflicts of interest related to contracts and procurement solicitations;
- Prohibits contracts for goods or services if certain agency personnel have a financial interest in the contract; and defines financial interest to include (1) direct or indirect ownership of 1% or more of the vendor (not including a retirement plan, blind trust, insurance coverage ownership interest of less than 1% in a corporate), and (2) a reasonably foreseeable financial benefit;
- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires Internet posting (until the contract expires or is completed) of (a) each contract the agency enters for the purchase of goods/services from a private vendor (including "sole source" contracts), (b) statutory or other authority for exclusive acquisition purchases, and (c) the RFP related to competitively bid contracts. Contracts with a value of less than \$15,000 may be posted monthly;
- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires agencies to (1) promulgate a rule to establish procedures to identify contracts that require enhanced contract or performance monitoring and submit information on those contracts to its governing body, and (2) report serious issues or risks with respect to monitored contracts to the agency's governing body;
- Requires agencies to develop contract reporting requirements for contracts for the purchase of goods/services with a value exceeding \$1 million;
- Prohibits a state agency from entering into a contract for goods/services with a value of more than \$1 million unless the governing body (or delegate of the governing body) approves/signs the contract;
- In connection with contracts for the purchase of goods/services with a value exceeding \$5 million, requires the contract management office or procurement

director to (1) verify in writing that the solicitation process complies with state law and agency policy, and (2) submit to the governing body information on any potential issue that may arise in the solicitation, procurement or contractor selection process;

- Requires each state agency to develop and comply with a purchasing accountability and risk analysis procedure providing, among other things, for (1) assessment of risk of fraud, abuse or waste in the procurement and contracting process, and (2) identification of contracts that require enhanced monitoring; and
- Requires each agency to (1) publish a contract management handbook consistent with the Comptroller's contract management guide, (2) post the handbook on the Internet, and (3) submit the handbook link to the Comptroller for re-posting on the Comptroller's web page.
- Sections 22, 23 and 25: Amend Sections 51.9335(d) and 73.115(e) and (f), Education Code, to make those provisions subject to new Section 51.9337, Education Code.
- Section 51.9337 provides that an IHE may not exercise best value procurement authority for goods and services granted by Section 51.9335 or 73.115, unless the IHE's board of regents promulgates rules required by Section 51.9337, including rules adopting:
  - A code of ethics for officers and employees related to executing contracts or awarding contracts;
  - Policies for internal investigation of suspected fiscal irregularities;
  - A compliance program to promote ethical behavior and compliance with applicable laws, rules and policies;
  - A contract management handbook covering contracting policies, contract review and risk analysis;
  - Contracting delegation guidelines;
  - Training for officers and employees authorized to execute contracts or exercise discretion in awarding contracts; and
  - Internal audit protocols.

An IHE's chief auditor must annually assess whether the IHE has adopted rules and policies required by Section 51.9337 and report findings to the State Auditor. If the State Auditor determines that the IHE has not adopted rules and policies required by Section 51.9337, the State Auditor must report that failure to the Legislature and to the IHE's board of regents, and work with the IHE to develop a remediation plan. Failure by the IHE to comply within the time specified by the State Auditor will result in a finding that the IHE is in noncompliance. That finding will be reported to the Legislature and the Comptroller.



An IHE that is not in compliance with Section 51.9337 is subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code.

Section 24: Adds new Section 51.954, Education Code, requiring a faculty member or other employee of an IHE who conducted research, to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

“Sponsored research” means research conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research, and “... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research.” “Public communication” means “oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information.”

Section 28: Mandates implementation of applicable the provisions of this bill as soon as practical after September 1, 2015.

Section 30: Applicable provisions of this bill apply only to contracts entered into on or after September 1, 2015.

**Impact:** Section 2: The Comptroller’s Centralized State Procurement Study may ultimately produce regulations or statutes that impact the purchasing and contracting functions of UT institutions. UT institutions should monitor the progress and results of this study and any related rulemaking or legislative processes.

Section 3: New Section 441.1855 Retention of Contract and Related Documents by State Agencies, Government Code, requires UT institutions to retain each contract entered into by the institution and all contract solicitation documents related to the contract; and permits UT institutions to destroy the contract and solicitation documents only after the seventh (7th) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved.

Section 4 and 27: Section 572.069, Government Code, impacts former officers and employees of UT institutions. Section 572.069 appears to restrict the ability of former employees to work for persons the former employee participated in a procurement with or negotiated a contract with during the former employee’s tenure with UT and lasts for two years from the end of State service. Sections 4 and 27 do not include criminal penalties or other specific enforcement provisions. UT employees continue to be subject to existing UT ethics policies and procedures.

Sections 15 and 16: DIR determined that IHEs making purchases of “commodity items” under DIR “commodity item” group purchasing contracts authorized by Section 2157.068,

Government Code, are not subject to the new statutory requirements (additional competitive processes, \$1 million monetary cap, or DIR SOW review) placed on other state agencies utilizing those group purchasing contracts. DIR plans to promulgate regulations implementing DIR's interpretation of amended Section 2157.068

and new Section 2157.0685. UT institutions may defer to DIR rules which appear to be consistent with prior DIR interpretations of related statutes.

Note: All purchases from group purchasing organizations (including programs administered by DIR) will continue to be subject to current and future guidance issued by the Group Purchasing Organization Purchasing Task Force and UT System.

Sections 17 and 18: Subject to other applicable law, this bill amends Chapter 2261, Government Code, to make UT institutions (regardless of source of funds) subject to new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts.

Sections 22, 23 and 25: Sections 51.9335(d) and 73.115(e) and (f), Education Code, are subject to new Section 51.9337, Education Code.

New Section 51.9337, Education Code, conditions the best value procurement authority for goods/services of all UT institutions on adoption by the Board of Regents of certain rules and policies required by Section 51.9337. If the Board of Regents fails to adopt the specified rules and policies, UT institutions will be subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, which are generally more burdensome.

Section 24: Section 51.954, Education Code, may impact UT institutions in the three following ways: First, Section 51.954 codifies the current practice of including the sponsor's name on federal and state supported grants. Second, UT institutions will be required to monitor faculty member compliance with Section 51.954. Note that the faculty member (not the UT institution) publishes or discloses his/her research findings. Third, UT institutions will be required to perform calculations to determine if payments received or the value of materials received under one grant or a under a combination of grants and contracts constitutes at least 50% of the cost of conducting the research. UT institutions will need to adopt policies and procedures to implement these new requirements. (BethLynn Maxwell)

Section 28: Requires UT institutions to implement the applicable provisions of this bill as soon as practical after September 1, 2015.

Section 30: Applicable provisions of this bill will apply to UT institution contracts entered into after September 1, 2015.

**Implementation:** This bill requires UT institutions to implement applicable provisions as soon as practical after September 1, 2015. Implementation will require discussions among the UT System Office of Business Affairs, Office of Governmental Relations, Office of General Counsel, administrative offices at UT institutions, the Board of Regents,

additional IHEs, and others. These discussions are ongoing. Implementation will likely require changes to existing policies and procedures, as well as implementation of new policies and procedures.

**Effective:** September 1, 2015

Dana Hollingsworth

**SB 212** by Birdwell, et al. and Burkett, et al.

Relating to Relating to the abolishment of the Texas Council on Purchasing from People with Disabilities and the transfer of its functions to the Texas Workforce Commission.

This bill amends Chapter 122 of the Human Resources Code, Section 2155.138 of the Government Code, and SB 219 (84th Legislative Session) to abolish the Texas Council on Purchasing from People with Disabilities (Council) and transfer the powers and duties of the Council to the Texas Workforce Commission (TWC).

**Impact:** Under current law, UT institutions are required to make certain purchases of goods and services provided by persons with disabilities through programs operated by the Council. When the TWC takes responsibility for those programs, the TWC may promulgate new or different regulations related to purchases from persons with disabilities that may impact procurements by UT institutions.

**Implementation:** Advise UT administrators, including employees responsible for contracting and procurement, of the impact of this bill. UT institutions will want to monitor any changes the TWC makes to the programs previously operated by the Council.

**Effective:** September 1, 2015

Dana Hollingsworth

### **Construction**

**HB 100** by Zerwas, et al. and Seliger

Relating to authorizing the issuance of revenue bonds to fund capital projects at public institutions of higher education.

HB 100 amends Chapter 55 of the Education Code and is the omnibus tuition revenue bond ("TRB") bill authorizing University Systems to issue various amounts of TRBs for construction and renovation projects. In addition to the authorizations for TAMU, UH, TSU, UNT, TWU, MWS, SFA, TT and TSU, TSTA Systems, the University of Texas System would be authorized to issue the following TRBs:

UT Austin: \$75 million for Welch Hall renovations

UTRGV: \$36.432 million for a multipurpose academic center, Brownsville

	\$30.6 million for engineering studies building, Edinburg
UTSW:	\$80 million for vivarium and academic and laboratory facilities
UTSHC-SA:	\$80 million for facilities renewal and renovation
MDACC:	\$70 million for Shiekh Zayed Bin Sultan Al Nahyan Building
UTMB:	\$67.8 million for health education center
UTA:	\$70 million for science and engineering innovation research building
UTD:	\$70 million for engineering building
UTEP:	\$70 million for interdisciplinary research facility
UTSA:	\$70 million for instructional science and engineering building
UTT:	\$60 million for STEM building
UTHSC-H:	\$80 million for renovation and modernization of educational and research facilities
UTHSC-T:	\$14.8 million for renovation and modernization of educational and research facilities
UTPB:	\$48 million for engineering and kinesiology buildings

**Impact:** HB 100 authorizes UT System to issue a total of \$922.632 million in TRBs.

**Implementation:** The Board of Regents must approve the addition of the TRB projects to the CIP and authorize the issuance of the TRBs by the Office of Finance. The Office of Business Affairs, along with the Office of Academic Affairs and the Office of Health Affairs, should coordinate with the Chief Business Officers on each campus to develop the total project cost and identify any other needed funding to be presented to the Board for consideration.

**Effective:** September 1, 2015

Jim Phillips

**SB 1081** by Creighton and Huberty

Relating to the disclosure of certain information under a consolidated insurance program.

This bill amends Chapter 151 of the Insurance Code, Consolidated Insurance Programs, to add new Sections 151.003 through 151.008.

The bill requires that a principal (the Owner) provide a great deal of very detailed information about the insurance coverage and its administration on a project that will use a consolidated insurance program. The information must be provided at least 10 days before entering into a construction agreement. Contractors must similarly pass on the information to their subcontractors.

Failure to provide the information can open the door for the contractor or a subcontractor to opt out of the consolidated insurance program and require the principal to pay their insurance costs. If the information is not provided in a timely manner, the contractor or subcontractor cannot be forced to enter into a construction agreement that requires use of the consolidated insurance program.

The bill also allows a contractor to request a complete copy of the insurance policy that provides coverage for the contractor under a consolidated insurance program and makes failure to provide the copy in a timely manner a material breach of the construction agreement.

**Impact:** For many years UT System has administered a consolidated insurance program, the Rolling Owner's Consolidated Insurance Program or "ROCIP," that is used on most major construction projects. While the bill should not have any significant impact on insurance coverage under the program, the new disclosure requirements will require modifications to the processes and procedures used to select and enter into agreements with contractors on projects that are insured under the ROCIP.

**Implementation:** The Office of Facilities, Planning and Construction and the UT System Office of Risk Management will need to revise and coordinate their procedures and processes for selecting and executing an agreement with a contractor on projects insured under the ROCIP to assure compliance with the disclosure requirements.

**Effective:** January 1, 2016

Edwin Smith

### **Information Resources**

[HB 855](#) by Sanford and Taylor

Relating to the compatibility of state agency websites with certain devices and Internet browsers.

HB 855 adds a new statute to Chapter 2054 of the Government Code requiring state agencies and institutions of higher education with a generally accessible Internet website to ensure that such a website is compatible with both wireless communication devices as well as the three most commonly used Internet browsers as identified by the Department of Information Resources.

**Impact:** UT System and the UT institutions will need to ensure that their generally accessible Internet websites meet the requirements established by HB 855.

**Implementation:** UT System and UT institutional offices implementing and maintaining UT websites will need to address HB 855's requirements.

**Effective:** September 1, 2015

Scott Patterson

[HB 1890](#) by Elkins and West

Relating to the development and implementation of a statewide strategy for legacy system modernization.

HB 1890 adds a new Subchapter Q to Chapter 2054 of the Government Code that implements a modernization strategy for state computer systems or programs that are operated with obsolete or inefficient hardware or software technology, which are referred to as "legacy systems."

While institutions of higher education are exempt from certain parts of this strategy, the following parts of that strategy are applicable to such institutions:

- The Department of Information Resources (DIR) is to develop and implement a shared application portfolio management program for state agencies that includes best practices and tools to assist state agencies in managing applications.
- State agencies are to use available funds to identify information security issues and develop a plan to prioritize the remediation and mitigation of those issues.
- In considering and implementing new applications or remediation strategies, state agencies are to prioritize standardization and consolidation by emphasizing shared solutions, including those delivered as a service through the Internet. Furthermore, the DIR may offer such shared solutions to state agencies.

**Impact:** UT System and the UT institutions will need to participate in and comply with the legacy system modernization strategy established by HB 1890.

**Implementation:** The information technology and information security offices at UT System and the UT institutions will need to ensure compliance with HB 1890's legacy system modernization strategy.

**Effective:** June 15, 2015

Scott Patterson

[HB 1912](#) by Elkins and Zaffirini

Relating to employment of a statewide data coordinator in the Department of Information Resources.

HB 1912 modifies Chapter 2054 of the Government Code to require the executive director of the Department of Information Resources (DIR) to employ a statewide data coordinator to:

- improve the control and security of information collected by state agencies;
- promote the sharing of information by state agencies (including customer information);
- reduce the state's information collection costs; and
- develop and implement best practices among state agencies to:
  - improve interagency information coordination,
  - reduce duplicative information collection,
  - increase accountability and ensure compliance with statutes and rules requiring agencies to share information,
  - improve information management and analysis to increase information security, uncover fraud and waste, reduce agency costs, improve agency operations, and verify compliance with applicable laws,
  - encourage agencies to collect and post on their Internet websites information related to agency functions that is in an open file format and is machine-readable, exportable, and easily accessible by the public, and
  - encourage the evaluation of open document formats for storing data and documents generated by state agencies.

**Impact:** The information technology and information security offices at UT System and the UT institutions will be primarily impacted by the responsibilities of the statewide data coordinator.

**Implementation:** The information technology and information security offices at UT System and the UT institutions will need to cooperate and interact with the new DIR statewide data coordinator established by HB 1912. This may be best accomplished through organizations such as the UT Strategic Leadership Council, the UT Information Security Council, and the Information Technology Council for Higher Education (“ITCHE”) established under Section 2054.121 of the Government Code..

**Effective:** September 1, 2015

Scott Patterson

[HB 3707](#) by Gonzales and Perry

Relating to cloud computing services.

Section 2157.007 of the Government Code provides that a state agency subject to the automated information system purchasing requirements set forth in Chapter 2157 of the Government Code may consider purchasing advanced Internet-based computing services for a “major information resources project” as that term is defined in Chapter 2054 of the Government Code.

However, in doing so a state agency must ensure that such projects meet or exceed required state standards for cybersecurity. Section 2157.007 also authorizes the Department of Information Resources (DIR) to review the process for the coordinated development, hosting, and management of computer software for state agencies that use advanced Internet-based computing services.

HB 3707 modifies Section 2157.007 so that it instead addresses cloud computing services, instead of the “advanced Internet-based computing services” previously referred to in that statute. As so revised, Section 2157.007 defines such cloud services as having the meaning assigned by Special Publication 800-145 issued by the United States Department of Commerce National Institute of Standards and Technology, as the definition existed on January 1, 2015.

**Impact:** Section 2157.007 of the Government Code is located in Title 10, Subtitle D of the Government Code. However, the statutes that provide best value procurement authority to Texas institutions of higher education — Sections 51.9335, 73.115, and 74.008 of the Education Code — state that Title 10, Subtitle D of the Government Code does not apply to the acquisition or purchase of goods and services under such statutes (except for specific laws or rules related to contracting with historically underutilized businesses or to procurement from persons with disabilities), so long as such institutions comply with the required standards placed on such authority as specified in the Education Code. Therefore, HB 3707’s changes do not directly impact UT System or UT institutions to the extent that their procurements are conducted in accordance with such best value procurement authority statutes.



**Implementation:** The UT System Offices of Academic and Health Affairs should make all business, information technology, and information security offices at UT System and the UT institutions aware of the changes made by HB 3707.

**Effective:** September 1, 2015

Scott Patterson

[HB 896](#) by Hernandez and Huffman

Relating to creating a criminal offense regarding the breach of computer security.

This bill criminalizes intentionally accessing information on a computer or data base owned by a System institution for an unauthorized user. The Office of Police will need to ensure that police officers are trained about this new offense. These actions are already violations of System security policies.

**Impact:** These actions are already violations of System security policies. Violators can be charged, if necessary, under other offenses.

**Implementation:** The Office of Police and campus police offices will need to ensure that police officers are trained about this new offense.

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 1844](#) by Zaffirini and Walle

Relating to the establishment and functions of the Interagency Data Transparency Commission.

SB 1844 adds a new Chapter 2060 to the Government Code that creates an Interagency Data Transparency Commission. Such a Commission is to study and review (a) current state agency public data structure, classification, sharing, and reporting protocols and (b) the possibility of collecting and posting state agency data online in an open source format easily accessible by the public.

In conducting such a study, the Commission is to consider methods to:

- structure, classify, and share data among state agencies;
- more efficiently gather and process data;
- collect and post data online in an open source format that is machine-readable, exportable, and easily accessible by the public;
- standardize data across state agencies;
- incorporate reporting practices by state agencies into the open data systems of the state;
- improve coordination of interagency data;
- improve sharing of data between state agencies;

- reduce the costs of collecting data;
- reduce duplicative data and information;
- increase accountability and ensure state agencies share and report the data collected by the state agencies;
- improve information management and analysis to:
  - increase information security;
  - uncover fraud and waste;
  - reduce costs incurred by state agencies;
  - improve operations performed by state agencies; and
  - verify compliance with applicable laws; and
- determine other data and transparency issues.

The new Chapter 2060 requires the Commission to provide a final report on data reporting practices by state agencies to the Governor, Lieutenant Governor, and Speaker of the House no later than September 1, 2016. Such a report must include the Commission's recommendations for efficient and effective solutions concerning the above areas addressed in its study, as well as solutions to other data and transparency issues identified by the Commission. The report must also include the Commission's proposals for legislation necessary to implement such recommendations, as well as administrative recommendations.

Furthermore, the Commission is required to provide any additional reports requested by the Governor, Lieutenant Governor, or Speaker of the House.

**Impact:** UT System and the UT institutions will need to work with the new Interagency Data Transparency Commission as necessary for the Commission to perform the studies and reviews and produce the reports and recommendations required by the new Chapter 2060. Furthermore, UT System and the UT institutions may be affected by any changes in state laws, regulations, policies, etc. concerning state agency public data structure, classification, sharing, reporting protocols and online posting of state agency data resulting from the Commission's operations.

**Implementation:** The business, legal, information technology, information security, public affairs, and public information offices at UT System and the UT institutions will need to cooperate and work with the new Interagency Data Transparency Commission, as well as remain cognizant of the studies, reviews, reports, and recommendations of that Commission.

**Effective:** September 1, 2015

Scott Patterson

[SB 203](#) by Nelson and Raymond, et al.

Relating to the continuation and functions of the Texas Health Services Authority as a quasi-governmental entity and the electronic exchange of health care information

The Texas Health Services Authority (“THSA”) was created by statute in 2007 and was legally structured as a nonprofit corporation to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges (“HIEs”) among public and private organizations across the state. Under Texas law, THSA is a public-private partnership that contracts with, but is not a part of, Health & Human Services Commission (HHSC) and is subject to the Sunset Act. In 2011, the THSA’s statutory authority was expanded to require it to develop privacy and security standards for the electronic sharing of protected health information and to develop a process for certifying health care provider’s compliance with HIPAA. These privacy and security standards help to gain the confidence of patients whose records are electronically transferred.

THSA is funded through a contract with HHSC through federal grants that are no longer available.

This bill adopts the recommendations of the Sunset Commission that THSA transition from a statutory non-profit corporation to an independent non-profit corporation between now and September of 2021.

Section One terminates the current requirement that a representative of the THSA serve as a member of the Electronic Health Information Exchange System Advisory Committee, a group made up of various types of providers, organizations, and state agencies whose purpose is to inform the HHSC about topics related to electronic health information as of September 1, 2021. In its place, a representative of a private non-profit corporation with relevant knowledge and experience in establishing statewide information exchange capabilities will serve on the Committee.

Section Two terminates the current requirement that HHSC coordinate with THSA on certain audits of health care providers’ compliance with HIPAA privacy requirements for health record as of September 1, 2021.

Section Three terminates the current requirement that HHSC and the Texas Department of Insurance consult with THSA on obtaining funding to support the development and oversight of health information exchanges as of September 1, 2021.

Sections Four, Five and Six provide that various provisions of the statute that authorizes THSA shall expire on September 1, 2021.

Section Seven provides that the two *ex officio* members that the governor must appoint to the THSA’s board of directors may include representatives of any health and human services agency, rather than representatives of the Department of State Health Services, as is currently required

Sections Eight through Fourteen abolishes various powers and authorities currently granted to the THSA as of September 12, 2021.

Section 15 provides that privacy and security standards for sharing protected health information electronically that THSA was required to recommend to HHSC remain in effect unless and until HHSC amends them. It also provides that the private non-profit corporation designated by HHSC (which will replace the current THSA) will assist HHSC in establishing statewide standards for the sharing of protected health information through health information exchanges (HIEs) and will publish the standards on the private non-profit corporation's website.

**Impact:** This bill should not directly impact UT System. It may slow the development of Health Information Exchanges in Texas, which could indirectly impact System institutions that provide health care services and were relying on the efforts of the THAC to promote the creation of HIEs that would improve efficiency and efficiency of sharing and receiving health care information with other health care providers, insurers and other health care payors, and other entities. However, THSA can continue its mission to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges among health care providers and other organizations across the state without specific statutory authority as a private non-profit. Therefore, assuming THSA's transition to a private non-profit is successful, the bill may not impact UT System institutions in this regard at all. The bill does provide that the specific functions currently performed by THSA that have the potential to impact System institutions that provide health care services; namely, the adoption and amendment of privacy and security standards for sharing protected health information electronically, will continue to be performed by HHSC. If THSA does not succeed as a private non-profit corporation, HHSC can other establish its own certification process or designate another entity to do the certification.

**Implementation:** System institutions that provide health care services which involve the exchange of electronic health data should track the development of rules adopted by HHSC and THSA and any successor non-profit with regard to the adoption and amendment of privacy and security standards for sharing protected health information electronically. UT institutions should be aware of the provisions regarding the date upon which THSA loses authority to act, which take effect September 1, 2021

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 1877](#) by Zaffirini and Galindo.

Relating to the development and maintenance by each state agency of a data use agreement for the state agency's employees and to training related to that agreement.

This bill amends the Government Code to require each state agency, including institutions of post-secondary education, to develop a data use agreement that meets the agency's

particular needs and is consistent with Department of Information Resources rules relating to information security standards for state agencies. The agency or institution must update the data use agreement at least biennially but may also do so as necessary to accommodate best practices in data management. The data use agreement, and each update to that agreement, must be distributed to each employee and signed by the employee. It also requires each agency and institution, to the extent possible, to provide agency employees with cybersecurity awareness training to coincide with the distribution of the data use agreement and each biennial update to that agreement.

**Impact:** The requirement for the data use agreement will have little impact on System, as it has already adopted a System-wide policy, UTS 165. UTS 165 contains a data use agreement template (the System “Acceptable Use Policy” or “AUP”) and requires each institution to adopt and distribute the agreement and have each employee sign and acknowledge the agreement before they can access System information resources or data. The codification of this requirement as law will enable System information security officers and privacy officers to reinforce the importance of complying with these requirements. System and its institutions also currently provide cybersecurity training to all employees but it is not necessarily coordinated with the requirement to have each employee acknowledge the institution’s AUP .

**Implementation:** System-wide Information Security Compliance and the Office of General Counsel will jointly review UTS 165 and the System’s Acceptable Use Policy template, and send information about any required updates and reminders to each institutions’ Information Security Officers and chief business officers along with a reminder about the need to review their institutional policies to ensure that they comport with the time lines provided in the new law for having the AUP signed and for providing cybersecurity training. The new requirements can also be reinforced by Information Security and the System Privacy Coordinator at the upcoming semi-annual UT InfoSec conference.

**Effective:** September 1, 2015

Barbara M. Holthaus

**SB 1878** by Zaffirini and Elkins

Relating to study on the feasibility of implementing more secure access requirements for certain electronically stored information held by the state.

This bill requires the Texas Department of Information Resources (DIR) to conduct a study on the feasibility of using a single portal for accessing electronic data maintained by state agencies, including UT System through statewide adoption of Identity and Access Management Systems (IAMS) and two-step authentication. It requires DIR to seek input from agencies with unique needs. Specifically, the study is to examine the relative costs and benefits of various forms of identification and access management, including multifactor authentication, and develop a strategy by which DIR may most effectively

negotiate for bulk purchase across agencies at the lowest cost to the state. The report must be filed by November 30, 2016.

**Impact:** Given the scope and variety of the missions of its fifteen institutions, System has unique information technology and security needs, as well as the numerous access portals each institution maintains for sharing and receiving different kinds of electronic data (student applications, health care records, the self-funded health insurance plan, donor contributions, Medicaid, Medicare and other health care provider billing) that would not be served by a “one size fits all” approach. System already has arrangement in place with entities and vendors that are adept at meeting the unique needs of higher education institutions in for IAMS. System information security and information technology officers should be actively involved in the study and facilitate a way for all affected stakeholders within the institutions to monitor and provide proposals arising from the study. Otherwise, the results are likely to have a negative impact on System’s and its institutions’ abilities to address the specific issues that affect their constituents and stakeholders.

**Implementation:** System information security and information technology experts should be proactively and directly involved in this study. Currently, there is a very informal, non-structured group (ITCHE) of representatives of information technology officers from System, Texas A&M, Tech and other post-secondary educational institutions. ITCHE provides input to DIR in information technology issues on rulemaking that affects public institutions of higher education on *ad hoc* basis. There is no representative System information security program on that group, as the group speaks on behalf of all if the involved institutions, not just System. Even if a representative of ITCHE participates, System executive officers should also appoint individuals who represent specific information technology *and* information security interests at System and its institutions to ensure that System’s specific interests in this study are taken into account.

**Effective:** September 1, 2015

Barbara M. Holthaus

### **Real Property and Space Leasing**

**HB 2559** by Zerwas and Watson

Relating to leases and other agreements involving real property entered into by certain hospital districts.

This act amends Sections 281.050(b) and 281.0511 of the Health and Safety Code. The amendment to Section 281.050(b) permits the board of a hospital district, with the approval of the commissioners court, to enter into a lease with option to purchase, an installment purchase agreement, or any other type of agreement that relates to real property for the improvement, acquisition or management of developed or undeveloped real property.

Under the amendment to Section 281.0511, which “applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003(which likely only includes Travis County) a

hospital district board may, with commissioners court approval, enter into ground leases for undeveloped or vacant real property for not more than 99 years to provide for the development of facilities designed to generate revenue for the hospital district. The hospital district, directly or through a nonprofit corporation, may enter into a joint venture with a public or private entity to enter into such lease.

**Impact:** The amendment to Section 281.0511 will impact UT Austin's Medical District, which is adjacent to land owned by Central Health. The amendment to Section 281.050(b) will apply to hospital districts in Dallas, Harris, Tarrant, Travis, Bexar, Galveston, Ector, and others.

**Implementation:** Advise UT System health institutions of the amendment to section 281.050(b) of the Health & Safety Code, which will apply to hospital districts with which they interact. The amendment to section 281.0511 will indirectly affect UT Austin Medical District and this institution should be advised of this change.

**Effective:** May 23, 2015

Ed Walts

**HB 1665** by –Bonnen and Kolkhorst

Relating to notice of water level fluctuations to purchasers of real property adjoining an impoundment of water.

A seller of real property adjoining an impoundment of water, such as a reservoir or lake, must give to the purchaser of the property a notice that the water level may go up or down due to floods, droughts and regulatory water needs. Failure to provide the notice permits the buyer to terminate the contract or bring suit after closing.

**Impact:** Impacts UT System's Real Estate Office.

**Implementation:** Add this to the list of statutory notices in UT System's form contract.

**Effective:** September 1, 2015

Ed Walts

**HB 3750** by Simmons *et al.* and Birdwell

Relating to interim studies on real property owned by the state.

This act requires all state agencies to report detailed information on buildings, facilities and land owned for insurance purposes. The Legislative Budget Board coordinates the collection of comprehensive real property data for delivery to the State Office of Risk Management. A very detailed list of real property data will be collected. Information for a building or facility owned by an institution of higher education shall be collected from the Texas Higher Education Coordinating Board (THECB). The information to be collected



by the THECB is less extensive than that required for other state agencies and consists of 10 categories of information as reported to the THECB. Information on land owned by institutions of higher education must be reported by each institution of higher education. The State Office of Risk Management will prescribe the date by which this information must be submitted by state agencies. No later than June 1, 2016, the State Office of Risk Management shall consolidate the information submitted. The Act expires September 1, 2017.

**Impact:** Fulfilling the reporting requirement may take a potentially significant commitment of time and resources to collect the required information.

**Implementation:** The Real Estate Office, the Office of Risk Management, and University Lands will need to coordinate their efforts with the possible involvement of the UT System component institutions to collect the required information.

**Effective:** June 19, 2015

Ed Walts

[HB 3316](#) by Miller and Hancock

Relating to the time of recording a durable power of attorney for certain real property transactions.

The current Estates Code Section 751.151 requires a durable power of attorney to be filed in the county records for real property transactions that require the execution and delivery of instruments. This can include a release, assignment, satisfaction, mortgage, security agreement, deed of trust, encumbrance, deed of conveyance, oil and gas or other mineral leases, memorandum of lease, lien, or other claim or right to real property. An untimely filing of a durable power of attorney can result in a real property transaction losing legal standing or in a break in the chain of title. The new statute requires that the durable power of attorney be filed not later than the 30<sup>th</sup> day after the date the instrument is filed for recording. This Act applies only to real property transactions entered into on or after the effective date. Former law continues to apply to transactions entered into before the effective date.

**Impact:** If UT System or an institution enters into any of the above real estate transactions where the other party to the transaction has the instrument signed by an agent with a durable general power of attorney, a copy of the durable power must be recorded within 30 days of the recording of the original instrument. The results of the failure to do so are not clear. The bill as filed would have made the transaction voidable but that language was removed before passage.

**Implementation:** Rule 60103, Guidelines for Acceptance of Gifts of Real Property, requires the Real Estate Office and the University Lands Division, with regard to gifts of real estate surface and mineral estates, respectively, to ensure that all deeds are recorded in the county where the surface or minerals are located and retain the original deed in its permanent records. Similarly, Rule 709301 delegates to the Executive Director of Real Estate the power to execute all contracts with regard to real property ,(but excluding PUF



and leases of mineral interests) and to the University Lands Division through the Executive Vice Chancellor for Business Affairs for PUF and mineral interests. Thus, the Real Estate Office and the University Lands Division should be alerted to make sure that durable powers of attorneys used by other parties to real estate contracts with UT System or its institutions are recorded within 30 days.

**Effective:** September 1, 2015

Don Jansen

[HB 262](#) by Miles, et al. and Creighton, et al.

Relating to liability of an owner, lessee, or occupant of land that allows land to be used as a community garden.

HB 262 provides that an owner or lessee that gives permission to other persons to use land for a community garden does not by the grant of such permission ensure that the premises are safe or assume responsibility for personal injury or property damage suffered by persons entering the premises for purposes related to a community garden. The bill does not, however, limit the liability of the owner or lessee for injury caused by the willful or wanton acts or gross negligence of the owner or lessee. The bill does require that the owner or lessee post “a clearly readable sign in a clearly visible location on or near the premises” the stating “WARNING - TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER, LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF THIS PROPERTY AS A COMMUNITY GARDEN.”

**Impact:** The bill limits potential causes of action against UT institutions that allow community gardens on their campuses, but does require that the institutions post the mandated signage.

**Implementation:** Each UT institution that has a community garden on its campus (now or in the future) will need to make and post the required signage.

**Effective:** September 1, 2015

Marty Novak

[HB 1510](#) by Thompson, et al. and Garcia, et al.

Relating to liability of persons who lease dwellings to persons with criminal records

HB 1510 provides that no cause of action lies against a landlord or the landlord’s agent solely for leasing a dwelling to a person convicted of, or arrested or placed on deferred adjudication for, a criminal offense. The bill does not, however, preclude a cause of action for negligence in leasing to a tenant (i) convicted of an offense for which court ordered community supervision is not available under Code of Criminal Procedure §42.12 (e.g., murder, aggravated robbery, aggravated sexual assault, aggravated kidnapping, indecency

with a child, injury to a child, compelling prostitution, etc.); or (ii) with “a reportable conviction or adjudication” under Code of Criminal Procedures Chapter 62 (Sex Offender Registration Program), if the landlord or landlord’s agent knew or should have known of the conviction of adjudication.

**Impact:** The bill provides some protection for each UT institution in the leasing of University housing, but does not relieve the general requirement that the institutions demonstrate reasonable diligence when evaluating and reviewing applicants for dorms and other student housing.

**Implementation:** The bill does not materially change the existing duties of the institutions when leasing student housing, but each UT institution must confirm that it has implemented appropriate procedures for reviewing the possible criminal history of applicants for student housing.

**Effective:** January 1, 2016

Marty Novak

[HB 2404](#) by Anderson, et al and Eltife

Relating to certain security devices for residential tenancies

HB 2402 provides that if a residential tenant vacates his or her premises in breach of a written lease, the landlord may deduct the reasonable cost of rekeying the premises only if the lease included an underlined or printed in boldface provision that authorizes the deduction.

**Impact:** This will affect all UT institutions that lease residential premises to students, staff, employees or other persons.

**Implementation:** Each institution must modify its form of residential lease to include an underlined or boldfaced provision authorizing the deduction of rekeying costs from the security deposit.

**Effective:** January 1, 2016

Marty Novak

[HB 3364](#) by Bettencourt and Schofield

Relating to the appeal of a judgment in an eviction suit

HB 3364 provides that in an eviction suit, only residential tenants may appeal the final judgment of a county court on the issue of the right to possession of the premises.

**Impact:** This will affect those UT institutions that lease space for non-residential purposes and must bring eviction actions to recover the premises.

**Implementation:** No immediate action is required of any institution, as this is a court procedural matter.

**Effective:** January 1, 2016

[SB 1367](#) by West and Anchia, et al.

Relating to certain obligations of and limitations on landlords

SB 1367 provides that if (i) the leased premises have no mailbox and the door security system prevents the landlord from opening the door to post a notice to vacate inside the door, or (ii) the landlord reasonably believes that harm to a person might result from personal delivery of the notice to the occupant or posting the notice on the inside of the entry door, the landlord may deliver the notice to vacate by securely affixing the notice to the outside of the main door in a sealed envelope that lists the tenant's name, address and has in all capital letters the words "Important Document" (or similar language) and not later than 5 pm on the day of posting mails a copy of the notice to the tenant.

SB 1367 further provides that a tenant's right to jury trial in an action under Property Code Chapter 92 (residential tenancies) may not be waived in a lease or other written agreement.

SB 1367 further provides that an owner's liability for return of a security deposit to a tenant after the owner sells the property to a third party ends when the new owner either receives or assumes liability for the security deposit (rather than, under current law, when notice of the transfer of the security deposit is given to the tenant by the new owner).

SB 1367 further provides that if a security deposit was not obtained in connection with a residential lease, the landlord must notify the tenant in writing of the landlord's claim for damages to the premises before the landlord reports the claim to a consumer reporting agency or third-party debt collector, unless the tenant left not forwarding mail address. A landlord who fails to give proper notice of the claim forfeits the right to collect damages and charges from the tenant.

**Impact:** Those UT institutions that operate dormitory and apartment complexes will be able to take advantage of the new eviction notice rules, but may find evictions of breaching tenants materially delayed if a tenant invokes his/her right to a jury trial for any lease dispute. If a UT institution desires to report or pursue unpaid damages claims in situations where no security deposit is held, the institution will need to comply with the notice requirement.

**Implementation:** Each institution will need to notify its housing administrative personnel of the statutory changes and modify its student eviction and damage claims procedures as necessary to comply with the statute.

**Effective:** January 1, 2016

Marty Novak

[SB 699](#) by Eltife *et al.*, and Kuempel

Relating to the Texas Real Estate Commission and the regulation of certain real estate professionals.

Most of the changes deal with technical modifications to functions of the Real Estate Commission and its regulation of real estate brokers and others subject to its regulations. However, subsections (d) and (e) were added to the Texas Occupations Code Chapter 1101.003. Subsection (d) limits a daily course segment for a qualifying real estate course to not more than 12 hours. Subsection (e) says that an education provider may not report to the commission the completion of an alternative delivery or correspondence course offered as a qualifying course until the elapsed time between the time the applicant or license holder registers for the course and the time the completion of the course is reported exceeds twice the number of hours for which credit is claimed.

**Impact:** The University of Texas at Austin offers Professional Development courses for Texas real estate licenses. The subsections (d) and (e) will affect delivery of these courses. From my review of the TREC website, I see a reference to UT Brownsville as a provider.

**Implementation:** System should advise UT Austin Professional Development Center in its Continuing and Innovative Education Department of this change. Determine if UT Rio Grande Valley will offer these courses and, if so, advise them as well. OGC is unaware of other academic institutions offer training for real estate licenses.

**Effective:** January 1, 2016

Ed Walts

[SB 462](#) by Huffman and Farrar

Relating to authorizing a revocable deed that transfers real property at the transferor's death.

Currently, an estate must be probated before real property can be transferred, and the title generally cannot be transferred until all creditors' claims have been satisfied. With this bill, real property could be transferred automatically at the time of death per prior written agreement filed in the county deed records. Creditors would still retain their rights against the real property, but this bill would allow a transfer without court approval first. The statute of limitations for a creditor to pursue real property subject to a transfer on death deed as an asset is now two years from the debtor's date of death.

**Impact:** Under the new law, a creditor may be required to pursue an action against the real property to satisfy a debt if other assets are insufficient to pay the debt. The window to take this action is now relatively short, and could be as little as two years after the death of a debtor.

**Implementation:** UT institutions, in particular the medical institutions, need to be aware that the window for pursuing a debt against real property owned by a debtor could be as short as two years from the debtor's date of death. These debts need to be referred to the Office of General Counsel as soon as possible.

**Effective:** September 1, 2015

Kevin C. Brown

[SB 1812](#) by Kolkhorst and Geren

Relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.

Comptroller's Eminent Domain Database

SB 1812 requires the Texas Comptroller of Public Accounts (Comptroller) to create and maintain a free, publicly-accessible online database with information regarding public and private entities authorized by the State to exercise eminent domain. The database must include the following information with respect to each entity:

- the name of the entity;
- the entity's address and public contact information;
- the name and contact information of the person representing the entity;
- the type of entity;
- each provision of law that grants the entity eminent domain authority;
- the focus or scope of the eminent domain authority granted to the entity;
- the location subject to the entity's eminent domain authority;
- the earliest date on which the entity had the authority to exercise the power of eminent domain;
- the entity's taxpayer identification number, if any;
- whether the entity has exercised its eminent domain authority in the preceding calendar year by the filing of a condemnation petition under Chapter 21, Property Code; and
- the entity's internet website address (or contact information if the entity does not have an internet website).

The Comptroller must update the eminent domain database at least annually, and may consult with the person representing each entity to obtain information necessary to maintain the database.

#### Eminent Domain Entities' Reporting Duties

SB 1812 requires each eminent domain entity to submit to the Comptroller initial and subsequent annual reports containing information specified above for the Comptroller's eminent domain database. The entity must submit the reports in a form and the manner prescribed by the Comptroller.

- With respect to the initial report, (1) an entity created before and in existence for at least 180 days on September 1, 2015 must submit its initial report by February 1, 2016, (2) an entity created before and in existence for less than 180 days on September 1, 2015 must submit its initial report not later than the later of the 180th day after the date of the entity's creation or February 1, 2016, and (3) an entity created on or after September 1, 2015 must submit its initial report no later than the 180<sup>th</sup> day after the date of the entity's creation.
- With respect to each annual report following the initial report, each entity must submit each such annual report by February 1 of the applicable year.
- If an entity's reported eminent-domain information changes, the entity has 90 days after the date on which the change occurred to report the change to the Comptroller. SB 1812 defines "creation date" (or the date an entity is created) as (1) the earliest date the entity existed if the entity had eminent domain authority on that date, or (2) the earliest date the entity was authorized to exercise the power of eminent domain if the entity did not have the authority on the earliest date on which the entity existed.

#### Penalties for Failure to Report

If an eminent domain entity fails to submit a report required by SB 1812, the Comptroller must notify the entity in writing of its failure and that the entity will be subject to a penalty of \$1,000 if it does not report the required information within 30 days after the date the notice is given.

If the entity remains non-compliant after the 30-day cure period, the Comptroller must send a second written notice to the non-compliant entity. The second notice must inform the entity that (1) the entity is liable to the State for the \$1,000 penalty, and (2) if the entity does not report the required information within 30 days after the date the second notice is given, the entity will be subject to an additional penalty of \$1,000 and the entity's non-compliant status will be reflected in the Comptroller's eminent domain database.

If the entity remains non-compliant after the second 30-day cure period, the entity is liable to the State for the additional \$1,000 penalty and the entity's non-compliant status is reflected in the Comptroller's database until the entity reports all required information.

However, it should be noted that an entity's failure to report or non-compliant status does not affect the entity's eminent domain authority or the exercise of that authority.

**Impact:** UT System will have to submit to the Comptroller the required reports containing information concerning the eminent domain authority of the Board of Regents of The University of Texas System. The reports must be submitted in a form and the manner to be prescribed by the Comptroller. UT System must submit the first of such reports by February 1, 2016, and each subsequent annual report by February 1 of the applicable year. UT System must also notify the Comptroller of any changes to its reported information within 90 days after the date on which the change occurred.

**Implementation:** The UT System Executive Director of Real Estate will be responsible for completing the required reports as well as their timely submission to the Comptroller.

**Effective:** June 19, 2015

Ha Kim Dao

### **Environmental Issues**

[HB 2767](#) by Keffer and Perry

Relating to the powers, duties, and administration of groundwater conservation districts; amending provisions that authorize fees.

HB 2767 amends Chapter 36 of the Water Code through numerous clean-up provisions and non-substantive revisions regarding fees, financial audits, appeals of permit decisions, and commission inquiries and reports. One substantive change is to the procedure for adding land to a district through landowner petition.

The bill would allow the addition of non-contiguous acreage to a district upon petition of a majority of landowners in the territory to be added, at least 50 landowners if number of landowners exceeds 50, or the commissioners court if the area is identified as a priority groundwater management area or includes the entire county. An election would be required to ratify the annexation by a majority vote of the voters within the territory. Permanent University Fund (PUF) lands are not exempted from these provisions of Chapter 36.

**Impact:** HB 2767 could result in PUF lands being added to non-contiguous groundwater district territory through petition by landowners adjoining PUF lands.

**Implementation:** University Lands should monitor petitions to add land to groundwater conservation districts to assure that non-contiguous PUF lands are not added if that would be detrimental to the interests of the PUF.

**Effective:** June 10, 2015

Jim Phillips

### **Property Accounting and Management**

**SB 1105** by Eltife and Cook

Relating to fire inspections by the state fire marshal for state-owned and state-leased buildings.

This bill amends Sections 417.0081 and .0082 of the Government Code to give the State Fire Marshal inspection duties and jurisdictional authority over all buildings owned or controlled by a state agency (previous law referred to buildings owned or controlled by the Texas Facilities Commission). The bill explicitly establishes that the State Fire Marshal is the “authority having jurisdiction over a state-owned building for purposes of fire safety.”

**Impact:** We have always deferred to the State Fire Marshal for the designation of fire and life safety codes that are applicable to our buildings and, in that respect, the changes to the law will not have any impact on our building processes. However, there is some concern that designating the State Fire Marshal as the “authority having jurisdiction over a state-owned building for purposes of fire safety” implies an expanded role for the State Fire Marshal in areas of enforcement, inspection and approval of construction activities. The potential impact of this legislation will depend on what, if any, actions or directives the State Fire Marshal provides indicating whether that office intends to expand its oversight of construction activities or not.

**Implementation:** Until and unless the State Fire Marshal addresses the “authority having jurisdiction” designation and how that will be exercised going forward, there should not be any other implementation required by the changes in the law. The Office of Risk Management along with the Office of Facilities, Planning and Construction should continue to communicate with the State Fire Marshal to get clarification about whether any changes in future processes or procedures are anticipated.

**Effective:** June 9, 2015

Edwin Smith

**SB 273** by Campbell, et al. and Guillen

Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty.

Amends Chapter 411, Government Code, by adding Section 411.209 to provide that:



A state agency may not provide oral or written notice or by any sign that a license holder carrying a handgun is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

A state agency that violates this section is liable for a civil penalty of not less than \$1,000 and not more than \$1,500 for the first violation; and not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation. Each day of a continuing violation constitutes a separate violation.

A citizen of this state or a person licensed to carry a concealed handgun may file a complaint with the attorney general that a state agency is in violation if the citizen or person provides the agency a written notice that describes the violation and specific location of the sign found to be in violation and the agency does not cure the violation before the end of the third business day after the date of receiving the written notice.

Before a suit may be brought against a state agency for a violation, the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency charged with the violation a written notice that:

- describes the violation and specific location of the sign found to be in violation;
- states the amount of the proposed penalty for the violation; and
- gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency was found liable by a court for previously violating this section.

If the attorney general determines that legal action is warranted and that the state agency has not cured the violation within the 15-day period, the attorney general may sue to collect the civil penalty and may also apply for other appropriate equitable relief. A suit or petition may be filed in a district court in Travis County or in a county in which the principal office of the state agency is located. The attorney general may recover reasonable expenses incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

Amends Section 46.035(c), Penal Code, to provide that:

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

**Impact:** UT System and UT institutions may be sued by the Attorney General for civil penalties and other expenses, for providing oral or written notice that a license holder carrying a handgun is prohibited from entering a UT building or land, if Penal Code sections 46.03 or 46.035 do not prohibit a license holder from carrying a handgun in the UT building or on the UT land.

**Implementation:**

- Training for UT System and UT institution police.
- Educational materials for campus administrators.
- **Effective:** September 1, 2015

Jack C. O'Donnell

**Research**

[HB 21](#) by Kacal, et al. and Bettencourt

Relating to authorizing patients with certain terminal illnesses to access certain investigational drugs, biological products, and devices that are in clinical trials.

This bill, which has also been referred to as the “Right to Try Law,” added chapter 489 to the Texas Health and Safety Code which:

- Creates a pathway for persons with “terminal illness,” as defined by the chapter, to have access to an “investigational drug, biological product, or device” outside of a clinical trial if the drug, device, or product has successfully completed Phase One of a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration and remains under investigation in the clinical trial.
- The patient is eligible for access to the investigational drug, biological product, or device if:
  - they have a terminal illness, attested to by their treating physician; and
  - the patient’s physician:
    - in consultation with the patient, has considered all other treatment options approved by the US Food and Drug Administration and determined that those treatment options are unavailable or unlikely to prolong the patient’s life; and

- has recommended or prescribed in writing that the patient use a specific class of investigational drug, biological product, or device.
- The patient must sign a written informed consent. If the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian may provide the informed consent. The executive commission of Health and Human Services Commission (HHSC) may, but is not required to, adopt a form for the informed consent.
- The manufacturer of the investigational drug, biological product, or device may, but is not required to, make the investigational drug, product, or device available to patients who are eligible under the chapter if the patient provides the informed consent. If the manufacturer provides the drug, product, or device, it must do so without receiving compensation.
- The bill specifies that the chapter does not create a private or state cause of action against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device.
- Prohibits an official employee, or agent of the state from blocking or attempting to block an eligible patient's access to an investigational drug, biological product, or device under the chapter.
- The Texas Medical Board may not revoke, fail to renew, suspend, or take any action against a physician's license under Subchapter B, Chapter 164 of the Occupations Code based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device, provided the recommendations meet the medical standard of care.

**Impact:** This legislation creates a route under Texas law for patients at our UT hospitals and institutions to have access to investigational drugs, biological products, or devices outside of a clinical investigational trial provided that the requirements of Chapter 289 are met and the manufacturer makes the drug, product, or device available to the patient without compensation (See also "Implementation" section below).

Continued Compliance with Federal Law: For Administrators, Legal, and Healthcare Providers at UT hospitals and health institutions:

Although this new Texas Health and Safety Code chapter creates a path for access to investigational drugs, biological products, or devices under Texas law and without FDA approval or oversight, it does not nullify existing federal laws that currently apply to investigational drugs, biological products, and devices such as 21 C.F.R. Chapter I, Food

and Drug Administration, Department of Health and Human Services. In fact, it is probable that this Texas law is preempted and nullified by the applicable federal laws.

Until the issue of which law controls is raised and decided in the court system, our UT hospitals, health institutions and healthcare providers should continue to comply with the applicable federal laws and regulations that apply to investigational drugs, biological products, and devices. Currently, federal law provides for access to investigational drugs outside of a clinical investigational trial through the “Expanded Access to Investigational Drugs for Treatment Use” at 21 C.F.R. §312.300 – §312.320.

Liability and TMB Provisions: For Legal and Healthcare Providers at UT hospitals and health institutions:

Although chapter 489 does not create a private or state cause of action against a person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, it does not eliminate or bar other common law or statutory causes of action that may be brought.

When strictly interpreted, the prohibition against the Texas Medical Board taking action against a physician’s license based solely on *recommending* the investigational drug, biological product, or device (provided the recommendation meets medical standard of care) would not necessarily apply when a physician *prescribes* the drug, product, or device. It may also be difficult to establish a standard of care when investigational drugs, products, or devices are involved. Finally, for physicians who are also licensed in other states, this provision would not prevent a licensing action against them in states other than Texas.

**Effective:** June 16, 2015

Bridget McKinley

[HB 26](#) by Button, et al. and Fraser

Relating to state economic development measures, including administration of the Texas Enterprise Fund, creation of the Economic Incentive Oversight Board and the governor's university research initiative, abolishment of the Texas emerging technology fund, and renaming the Major Events trust fund to the Major Events Reimbursement Program.

HB 26 is an omnibus bill on economic development.

ARTICLE 1: Governor’s University Research Initiative. This is the article most significant for higher education, creating the Governor’s University Research Initiative (GURI), and repealing the existing Texas Emerging Technology Fund (TEFT). The text for these purposes is similar to text in HB 7, and is identical to provisions also found in SB 632. Important differences between HB 7 and SB 632/HB 26 will need to be resolved, however:

- HB 7 creates an advisory board appointed by the governor to review and recommend approval or disapproval of applications; SB 632/HB 26 does not.
  - SB 632/HB 26 requires the recruit to be a Nobel laureate or national academy member; HB 7 allows awards to recruit as a distinguished researcher a person who is a member of an equivalent honorific organization.
  - HB 7 defines eligible institution to include any health-related institution, including medical schools such as the medical schools at UT Austin, UT RGV, and any public health science center such as UT Health Science Center Tyler; SB 632/HB 26 includes only institutions that are “medical and dental units,” a defined term that excludes UTHSC Tyler and the medical schools that are part of academic institutions.
  - HB 7 requires fully funding timely applications before funding late applications or partially funding applications; SB 632/HB 26 does not.
  - HB 7 expressly prohibits a GURI grant being used as a basis to reduce appropriations to the institution; SB 632/HB 26 does not.
  - HB 7 limits awards to recruitment of researchers in science, technology, engineering, math, or medicine; SB 632/HB 26 to give priority to those fields.
  - HB 7 provides detailed criteria for awards; SB 632/HB 26 does not.
  - HB 7 expressly authorizes awards for recruitment of researchers distinguished in basic, transactional, or applied research; SB 632/HB 26 does not.
  - HB 7 provides additional criteria for evaluating proposals, including the likelihood that the recruit will not accept a position but for the grant, the extent of interdisciplinary and collaborative research, and the commercialization track record of the recruit; SB 632/HB 26 does not.
  - HB 7 preserves the confidentiality of information that would identify the recruit that is the subject of a grant proposal; SB 632/HB 26 does not.
- The existing portfolio of TEFT would be managed by and liquidated by the Texas Safekeeping Trust Company.

ARTICLE 2: Economic Incentive Oversight Board. Article 2 establishes an advisory board to advise executive officers, including the governor, comptroller of public accounts, and commissioner of agriculture in regard to the effectiveness and efficiency of monetary incentive programs offered by those offices. No effect on higher education.

ARTICLE 3: Texas Enterprise Fund. Article 3 shortens from 90 days to 30 days the approval period for grants from Texas Enterprise Fund. No effect on higher education. (Note: The House engrossment of HB 26 would have authorized institutions of higher education to seek Texas Enterprise Fund grants for commercialization of property derived from institutional research, but that provision was not included in the conference committee report.)

ARTICLE 4: Article 4 changes the name of the Major Events Trust Fund to the Major Events Reimbursement Fund, and bases of the amount to be reimbursed to on prevailing state sales tax. No effect on higher education.

**Impact:** The creation of GURI provides a significant opportunity for System institutions to compete for awards to recruit distinguished researchers. The abolition of TEFT may provide some System institutions with current awards to wind up compliance with award contracts more easily.

**Implementation:** The provost or other appropriate officer should coordinate the institution's prompt application for funding from GURI, although the governor's office will likely be deliberate in preparing for implementation of the program.

**Effective:** September 1, 2015

Steve Collins

[HB 177](#) by Zedler, et al. and Bettencourt

Relating to the research, collection, and use of adult stem cells.

#### I. Adult Stem Cell Research Program

This bill amends Subtitle H, Title 3, of the Texas Education Code (Research in Higher Education) by adding a new chapter 156 that creates an Adult Stem Cell Research Program (Program), and is controlled by an Adult Stem Cell Research Coordinating Board (Board) which establishes and oversees the Texas Adult Stem Cell Research Consortium (Consortium).

#### Adult Stem Cell Research Coordinating Board

- The Board is composed of seven (7) members.
- The Governor will appoint three (3) of the members, with the advice and consent of the senate, all of whom must be interested persons. One must represent an institution of higher education, and another must be a representative of an advocacy organization representing patients who was appointed to that position by the governor with the advice and consent of the senate.
- The Lieutenant Governor and the Speaker of the House of Representatives will each appoint two (2) members who are interested persons.
- The governor shall designate the presiding officer of the Board. The presiding officer must be appointed to the Board by the governor and represent an institution of higher education. The presiding officer serves in that capacity at the will of the governor.
- The Board members serve staggered six (6) year terms.
- A person may not be a Board member if they have a conflict of interest as set out in the proposed statute, or if they are required to register as a lobbyist.

### Texas Adult Stem Cell Research Consortium

- The Consortium is composed of participating institutions of higher education and businesses that: 1) accept public money for adult stem cell research; or 2) otherwise agree to participate in the consortium.
- The Board will establish regulatory standards and oversight bodies for adult stem cell research conducted by Consortium members and the development of facilities for consortium members conducting adult stem cell research.

### Board Administration of the Program

- The Board shall administer the Program to: 1) make grants and loans for consortium members for adult stem cell research projects to develop therapies, protocols, or medical procedures involving adult stem cells; 2) the development of facilities to be used solely for adult stem cell research projects; and 3) commercialization of products or technology involving adult stem cell research and treatments.
- The Board will establish appropriate regulatory standards and oversight bodies for adult stem cell research conducted by Consortium members and for the development of facilities for consortium members conducting adult stem cell research.
- The Board shall develop priorities, procedures, and guidelines for providing grants and loans for research projects conducted by Consortium members. Grants and loans must be made on a competitive peer review basis.
- The Board shall also report its activities annually to the Texas Higher Education Coordinating Board, Governor, Lieutenant Governor, Speaker of the House of Representatives, and the presiding officer of legislative standing committees with jurisdiction over higher education.

### Funding

The consortium shall solicit, and the board may accept public or private gifts, grants, or donations. The program may not be funded by legislative appropriations.

### Timing of Action

- Board members shall be appointed as soon as practicable after the bill takes effect on September 1, 2015.
- On or before September 1, 2016, the Board shall submit its first report of its activities and recommendations.

## II. Adult Stem Cell Provisions

### Blood Banks

This bill also amends Chapter 162 of the Health and Safety Code (Blood Banks and Donation of Blood) by adding a definition of “adult stem cell” at section 162.001 and adding a new section, 162.020, which provides that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents in writing.

### Use of Adult Stem Cells

This bill also amends Chapter 1003 of the Health and Safety Code to:

- Change the title to “Adult Stem Cells” (previously titled “Autologous Stem Cell Bank for Recipients of Blood and Tissue Components Who are Live Human Donors”).
- Specifies *general requirements* for a *person* using adult stem cells in the provision of health care:
  - must use adult stem cells that are properly manufactured and stored; and
  - may only use them in a clinical trial approved by the U.S. Food and Drug Administration (FDA).
- Adds the following *additional requirements* for use of adult stem cells in *hospitals*:
  - a physician providing the services at the hospital determines that the use of adult stem cells for the procedure is appropriate;
  - the patient consents in writing to the use;
  - the general requirements are met;
  - the manufacturing process for the adult stem cells satisfy current good manufacturing practices adopted by the FDA; and
  - appropriate state and federal guidelines on the use of adult stem cells are followed.

### **Impact:**

Adult Stem Cell Research Consortium: UT System Institutions of higher education that accept public money for adult stem cell research will automatically be part of the Adult



Stem Cell Research Consortium under this bill. They will need to keep apprised on any regulatory standards that are promulgated by the Adult Stem Cell Research Coordinating Board (Board), and any oversight bodies that the Board creates, since as a Consortium member they will be subject to those standards and regulation by the Board and any oversight body.

Adult Stem Cell Use: UT System Institutions and providers who use adult stem cells in clinical trials will need to comply with the new stem cell use requirements in Chapter 1003 of the Health and Safety Code, as well as other applicable Federal, state, local, and institutional rules and regulations that apply to adult stem cell use.

UT System institutions that operate blood banks may now be able to collect adult stem cells from the blood that it obtains with proper written donor consent.

**Implementation:** Our UT System Institutions, possibly through their Department of Institutional Research (DIR) or equivalent department, will need to determine whether they are currently participating in adult stem cell clinical trials and ensure that they are complying with the new requirements in this bill relating to adult stem cell use by September 1, 2015. Through participation in the clinical trial and existing hospital policies and Institutional Review Board (IRB) review, all of these new requirements have probably already been satisfied. Our institutions will also want to determine whether they currently, or in the future plan to, receive public money for adult stem cell research since institutions that receive such money are automatically members of the Consortium. Institutions that are members of the Consortium will want to monitor the implementation of this chapter, such as the appointment of Board members and the creation of any regulatory standards or oversight bodies by the Board since they will be subject to those standards and regulation by the Board and any oversight body. The DIR or equivalent may be the most appropriate department to monitor these developments and ensure compliance with any future standards created by the Board.

**Effective:** September 1, 2015

Bridget McKinley

**HB 1000** by Zerwas, et al. and Seliger

Relating to state support for general academic teaching institutions in this state.

HB 1000 revises and reorganizes the funding of research at general academic institutions of higher education into three tiered programs.

The former Competitive Knowledge Fund becomes the Texas Research University Fund. In the revised fund, only UT Austin and Texas A&M University will meet the standard for participation of total research expenditures of \$450 million annually. Emerging research institutions, including UT Arlington, UT Dallas, UT El Paso, and UT San Antonio, are not

eligible. Amounts appropriated to UT Austin and Texas A&M will be based on annual research expenditures for the preceding three state fiscal years.

HB 1000 creates a new fund, the Core Research Support Fund, for which eligibility is restricted to institutions designated as an emerging research institution. Amounts will be appropriated to eligible institutions, with 50 percent based on average annual restricted research expenditures for the preceding three state fiscal years, and 50 percent based on total annual research expenditures the preceding three state fiscal years. The money must be used for educational and general activities that promote increased research capacity.

The former Research Development Fund becomes the Texas Comprehensive Research Fund, supporting research at institutions that are not eligible for the other two funds. Amounts appropriated to eligible institutions will be based on annual restricted research expenditures for the preceding three state fiscal years. The money must be used for educational and general activities that promote increased research capacity.

**Impact:** HB 1000 formalizes a structure reflected in the General Appropriations Bill. The Legislature appropriated \$147.1 million to support the Texas Research University Fund (TRUF), \$117.1 million for the Core Research Support Fund, and \$14.3 million for the Comprehensive Research Fund. This represents an increase of \$35 million in the Texas Research University Fund and \$10 million for the Core Research Support as compared to the amounts appropriated in the 2014-15 biennium. Although emerging research institutions that had made an initial contribution to the former Competitive Knowledge Fund did not receive a refund of that money, the increased amount appropriated to the Core Research Support Fund offset that “loss.”

**Implementation:** No specific implementation needs, except appropriate institutional business officers need to be aware of changed names and funding streams attached to the appropriations.

**Effective:** September 1, 2015

Steve Collins

[HB 1295](#) by Capriglione, et al. and Hancock

Relating to the disclosure of research, research sponsors, and interested parties by persons contracting with governmental entities and state agencies.

Section 1 creates a new Section 51.954, Education Code, to require a faculty member or other employee of an IHE who conducted the research to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

Several definitions are included in Section 51.954, e.g., “public communication”, “sponsor”, “institution of higher education” and “sponsored research”. Specifically, “sponsored research” is defined to mean research conducted under a contract with or that

is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research AND "... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research. "Public communication" is defined to mean "oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information. Please note that the language of section 1 is also contained in SB 20.

Section 2 of the bill creates a new section 51.955 of the Education Code, entitled, "Disclosure of Publicly Funded Research."

A state agency that expends appropriated funds may not do the following:

- Enter into research contracts with institutions of higher education if that contract contains a provision precluding public disclosure of any final data generated or produced in the course of executing the contract, unless the agency reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party; or
- Adopt a rule that is based on research conducted under a contract entered into with an institution of higher education unless the agency has made the results of the research and all data supporting the research publicly available, or reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party.

The prohibition in item 1 above does not apply to CPRIT.

Institutions of higher education must respond to requests for information under the public information act.

The section then includes language to state that it does not require public disclosure of personal identifying information or any other information the disclosure of which is otherwise prohibited by law.

Section 3 of the bill creates section 2252.908 of the Government Code, which requires recipients of state and local government agency contracts to file a disclosure statement with the contracting agency at the same time the recipient submits the signed contract to the agency.

This bill applies to a contract of a governmental entity or state agency (including higher ed. institutions) that:

- has a value of at least one million dollars, or
- requires an action or vote by the governing body of the state agency before the contract may be signed.

This section expressly does not apply to:

- an institution of higher education's sponsored research contracts, or
- interagency contracts between institutions of higher education and a state agency, or
- a contract related to health and human services if the value of the contract cannot be determined at the time the contract is executed and any qualified vendor is eligible for the contract.

For contracts that this section does apply to, the state agency may not enter into the contract unless the person with whom the agency is contracting submits a "disclosure of interested parties" to the state agency at the time the person submits the signed contract to the state agency.

The "disclosure of interested parties" is a form that will be created by the Texas Ethics Commission. The form must include:

- A list of each "interested party" for the contract of which the contracting person is aware; and
- The signature of the contracting person, or agent of the contracting person, acknowledging that the disclosure is made under oath under penalty of perjury.

An "interested party" is defined as a person with a controlling interest in a business entity, or who actively participates in facilitating a contract or negotiating the terms of a contract.

Once a state agency receives a disclosure of interested parties, the state agency must submit a copy of the disclosure to the Texas Ethics Commission.

The Ethics Commission is empowered to adopt rules to implement this section.

**Impact:**

Section 1: Although the statutory disclosure requirement is new, the disclosure of the identity of sponsors of research in publications and professional presentations is the common practice for sponsored research. Faculty will need to be aware of the expanded definition of "public communication" to ensure compliance with the statutory requirement.

The statute does not impose a sanction for failure to disclose and does not expressly require institutions to monitor faculty compliance.

Section 2: Section 51.955 has narrow application in that it applies only to contracts for research on behalf of a state agency, and the institutions performing the research will benefit from the exceptions to the disclosure requirement designed to protect the IP rights of the institution and the publication rights of the faculty member performing the research.

Section 3: For applicable contracts, System and the institutions will be prohibited from entering into a contract with a value of a million dollars or more unless the appropriate disclosure form has been filed. In addition, any contract requiring a vote of the board of regents regardless of cost must also have a disclosure form attached. UT System will also be required to submit these forms to the Texas Ethics Commission within 30 days.

**Implementation:**

Section 1: The President, Research Office, or other appropriate office should advise faculty engaged in sponsored research of the new disclosure requirements.

Section 2: The Research Offices at each institution should review their contracting processes to ensure that research agreements with state agencies that expend appropriated funds adequately address disclosure issues in accordance with section 51.955.

Section 3: Procurement Offices should review their procedures and work with UT System OGC to ensure that their purchasing procedures comply with the new requirements of Section 2252.908.

**Effective:** September 1, 2015

Jason King

[SB 20](#) by Nelson, et al. and Price, et al.

Relating to state agency contracting.

This summary represents UT System's current analysis of the provisions of SB 20. Discussions with stakeholders are ongoing. As a result, this analysis is subject to change.

Section 2: Adds new Section 403.03057, Government Code, to require the Comptroller (in cooperation with the Governor's budget and policy staff) to conduct a study examining the feasibility and practicability of consolidating state purchasing and procurement into fewer state agencies or one agency. The Comptroller must report the findings of the study to various State officials no later than December 31, 2016. Section 403.03057 expires January 1, 2018.

Section 3: Adds new Section 441.1855, Government Code, requiring a state agency to retain in its records each contract entered into by the state agency and all contract

solicitation documents related to the contract; and permitting a state agency to destroy the contract and documents only after the seventh (7<sup>th</sup>) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved. Section 441.180(9) defines “state agency” to include institutions of higher education (IHEs).

Sections 4 and 27: Section 4 adds new Section 572.069, Government Code, to create a “revolving door” prohibition for state officers and employees [ref. Section 572.002, Government Code, for definitions of state agency, state employee and state officer]. A state officer or employee who participated on behalf of a state agency in (1) a procurement, or (2) contract negotiation involving a person, may not accept employment from that person before the second (2<sup>nd</sup>) anniversary of the date the officer’s or employee’s service or employment with the state agency ceased.

Section 27 states that new Section 572.069 applies only to state officers and employees who cease state service on or after September 1, 2015.

Neither Section 4 nor Section 27 includes a criminal penalty or other enforcement provision.

Sections 15 and 16: Existing Section 2157.068, Government Code, authorizes DIR to (a) procure “commodity items” for state agencies, and (b) promulgate regulations requiring state agencies to purchase “commodity items” under a DIR contract pursuant to Section 2155.068.

Section 15 adds Sections 2157.068(e-1) and (e-2) requiring state agencies to follow specified competitive procedures when purchasing “commodity items” from the contract list developed by DIR under Section 2157.068, and prohibiting purchases for more than \$1 million under Section 2157.068.

Section 16 adds Section 2157.0685, Government Code, requiring state agencies entering into “commodity item” contracts under Section 2157.068 that require the agency to develop and execute a statement of work (SOW) to initiate the services under that contract to: (1) consult DIR before submission of the SOW to the vendor, (2) post each SOW on the agency’s website in compliance with DIR regulations, and (3) prohibit the agency from making payment under the SOW unless DIR first signs the SOW.

Section 17 and 18:

Section 17 amends Section 2261.001(a), Government Code, to exclude new Subchapter F, Chapter 2261, from the IHE exemption to the requirements of Chapter 2261. Section 18 adds new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts to Chapter 2261 providing that (notwithstanding Section 2261.001), Subchapter F applies to IHEs acquiring goods/services under Section 51.9335 or 73.115, Education Code. New Subchapter F:

- Requires disclosure of potential conflicts of interest related to contracts and procurement solicitations;
- Prohibits contracts for goods or services if certain agency personnel have a financial interest in the contract; and defines financial interest to include (1) direct or indirect ownership of 1% or more of the vendor (not including a retirement plan, blind trust, insurance coverage ownership interest of less than 1% in a corporate), and (2) a reasonably foreseeable financial benefit;
- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires Internet posting (until the contract expires or is completed) of (a) each contract the agency enters for the purchase of goods/services from a private vendor (including “sole source” contracts), (b) statutory or other authority for exclusive acquisition purchases, and (c) the RFP related to competitively bid contracts. Contracts with a value of less than \$15,000 may be posted monthly;
- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires agencies to (1) promulgate a rule to establish procedures to identify contracts that require enhanced contract or performance monitoring and submit information on those contracts to its governing body, and (2) report serious issues or risks with respect to monitored contracts to the agency’s governing body;
- Requires agencies to develop contract reporting requirements for contracts for the purchase of goods/services with a value exceeding \$1 million;
- Prohibits a state agency from entering into a contract for goods/services with a value of more than \$1 million unless the governing body (or delegate of the governing body) approves/signs the contract;
- In connection with contracts for the purchase of goods/services with a value exceeding \$5 million, requires the contract management office or procurement director to (1) verify in writing that the solicitation process complies with state law and agency policy, and (2) submit to the governing body information on any potential issue that may arise in the solicitation, procurement or contractor selection process;
- Requires each state agency to develop and comply with a purchasing accountability and risk analysis procedure providing, among other things, for (1) assessment of risk of fraud, abuse or waste in the procurement and contracting process, and (2) identification of contracts that require enhanced monitoring; and
- Requires each agency to (1) publish a contract management handbook consistent with the Comptroller’s contract management guide, (2) post the handbook on the Internet, and (3) submit the handbook link to the Comptroller for re-posting on the Comptroller’s web page.

Sections 22, 23 and 25: Amend Sections 51.9335(d) and 73.115(e) and (f), Education Code, to make those provisions subject to new Section 51.9337, Education Code.

- Section 51.9337 provides that an IHE may not exercise best value procurement authority for goods and services granted by Section 51.9335 or 73.115, unless the

IHE's board of regents promulgates rules required by Section 51.9337, including rules adopting:

- A code of ethics for officers and employees related to executing contracts or awarding contracts;
- Policies for internal investigation of suspected fiscal irregularities;
- A compliance program to promote ethical behavior and compliance with applicable laws, rules and policies;
- A contract management handbook covering contracting policies, contract review and risk analysis;
- Contracting delegation guidelines;
- Training for officers and employees authorized to execute contracts or exercise discretion in awarding contracts; and
- Internal audit protocols.

An IHE's chief auditor must annually assess whether the IHE has adopted rules and policies required by Section 51.9337 and report findings to the State Auditor. If the State Auditor determines that the IHE has not adopted rules and policies required by Section 51.9337, the State Auditor must report that failure to the Legislature and to the IHE's board of regents, and work with the IHE to develop a remediation plan. Failure by the IHE to comply within the time specified by the State Auditor will result in a finding that the IHE is in noncompliance. That finding will be reported to the Legislature and the Comptroller.

An IHE that is not in compliance with Section 51.9337 is subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code.

Section 24: Adds new Section 51.954, Education Code, requiring a faculty member or other employee of an IHE who conducted research, to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

"Sponsored research" means research conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research, and "... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research." "Public communication" means "oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information."

Section 28: Mandates implementation of applicable the provisions of this bill as soon as practical after September 1, 2015.



Section 30: Applicable provisions of this bill apply only to contracts entered into on or after September 1, 2015.

**Impact:**

Section 2: The Comptroller's Centralized State Procurement Study may ultimately produce regulations or statutes that impact the purchasing and contracting functions of UT institutions. UT institutions should monitor the progress and results of this study and any related rulemaking or legislative processes.

Section 3: New Section 441.1855 Retention of Contract and Related Documents by State Agencies, Government Code, requires UT institutions to retain each contract entered into by the institution and all contract solicitation documents related to the contract; and permits UT institutions to destroy the contract and solicitation documents only after the seventh (7<sup>th</sup>) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved.

Section 4 and 27: Section 572.069, Government Code, impacts former officers and employees of UT institutions. Section 572.069 appears to restrict the ability of former employees to work for persons the former employee participated in a procurement with or negotiated a contract with during the former employee's tenure with UT and lasts for two years from the end of State service. Sections 4 and 27 do not include criminal penalties or other specific enforcement provisions. UT employees continue to be subject to existing UT ethics policies and procedures.

Sections 15 and 16: DIR determined that IHEs making purchases of "commodity items" under DIR "commodity item" group purchasing contracts authorized by Section 2157.068, Government Code, are not subject to the new statutory requirements (additional competitive processes, \$1 million monetary cap, or DIR SOW review) placed on other state agencies utilizing those group purchasing contracts. DIR plans to promulgate regulations implementing DIR's interpretation of amended Section 2157.068 and new Section 2157.0685. UT institutions may defer to DIR rules which appear to be consistent with prior DIR interpretations of related statutes.

Note: All purchases from group purchasing organizations (including programs administered by DIR) will continue to be subject to current and future guidance issued by the Group Purchasing Organization Purchasing Task Force and UT System.

Sections 17 and 18: Subject to other applicable law, this bill amends Chapter 2261, Government Code, to make UT institutions (regardless of source of funds) subject to new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts.

Sections 22, 23 and 25: Sections 51.9335(d) and 73.115(e) and (f), Education Code, are subject to new Section 51.9337, Education Code.

New Section 51.9337, Education Code, conditions the best value procurement authority for goods/services of all UT institutions on adoption by the Board of Regents of certain rules and policies required by Section 51.9337. If the Board of Regents fails to adopt the specified rules and policies, UT institutions will be subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, which are generally more burdensome.

Section 24: Section 51.954, Education Code, may impact UT institutions in the three following ways: First, Section 51.954 codifies the current practice of including the sponsor's name on federal and state supported grants. Second, UT institutions will be required to monitor faculty member compliance with Section 51.954. Note that the faculty member (not the UT institution) publishes or discloses his/her research findings. Third, UT institutions will be required to perform calculations to determine if payments received or the value of materials received under one grant or a combination of grants and contracts constitutes at least 50% of the cost of conducting the research. UT institutions will need to adopt policies and procedures to implement these new requirements. (BethLynn Maxwell)

Section 28: Requires UT institutions to implement the applicable provisions of this bill as soon as practical after September 1, 2015.

Section 30: Applicable provisions of this bill will apply to UT institution contracts entered into after September 1, 2015.

**Implementation:** This bill requires UT institutions to implement applicable provisions as soon as practical after September 1, 2015. Implementation will require discussions among the UT System Office of Business Affairs, Office of Governmental Relations, Office of General Counsel, administrative offices at UT institutions, the Board of Regents, additional IHEs, and others. These discussions are ongoing. Implementation will likely require changes to existing policies and procedures, as well as implementation of new policies and procedures.

**Effective:** September 1, 2015

Dana Hollingsworth

**SB 44** by Zaffirini and Howard

Relating to matching private grants given to enhance additional research activities at institutions of higher learning.

This bill amends Section 62.123(a) of the Education Code to include gifts that are dedicated for the purpose of enhancing undergraduate research as types of gifts that are eligible to receive matching grants.

The bill also amends Section 62.123(b) to state that eligible institutions are not entitled to matching funds under the program for undergraduate financial aid grants.

**Impact:** UT System institutions are impacted by the bill because they can now receive matching funds when a donor pledges money for the purpose of enhancing undergraduate research.

**Implementation:** UT System institutions will need to carefully track gifts that are made for the purpose of undergraduate research and must apply for matching funds as they have traditionally done for other gifts covered under Sections 62.123 (a) and (b).

**Effective:** September 1, 2015

Ashley A. Palermo

[SB 632](#) by Fraser and Button, et al.

Relating to the creation of the governor's university research initiative and to the abolishment of the Texas emerging technology fund.

SB 632 abolishes the Texas emerging technology fund (TETF) and creates the governor's university research initiative (GURI) as the successor fund to the TETF. Note that SB 632 is also Article 1 in HB 26, an omnibus bill on economic development. SB 632 and the identical Article 1 in HB 26 are most significant for higher education because they create the Governor's University Research Initiative (GURI) and repeal the existing Texas Emerging Technology Fund (TEFT).

Important differences between SB 632/HB 26 and HB 7 will need to be reconciled and resolved:

- HB 7 creates an advisory board appointed by the governor to review and recommend approval or disapproval of applications; SB 632/HB 26 does not.
- SB 632/HB 26 requires the recruit to be a Nobel laureate or national academy member; HB 7 allows awards to recruit as a distinguished researcher a person who is a member of an equivalent honorific organization.
- SB 632/HB 26 defines "eligible institution" to include only institutions that are "medical and dental units," a defined term that excludes UTHSC Tyler and the medical schools that are part of academic institutions. In contrast, HB 7 defines "eligible institution" to include any health-related institution, including medical schools such as the medical schools at UT Austin and UT RGV, and any public health science center, such as UT Health Science Center Tyler.
- SB 632/HB 26 does not require fully funding timely applications before funding late applications or partially funding applications; HB 7 does.

- SB 632/HB 26 does not expressly prohibit a GURI grant being used as a basis to reduce appropriations to the institution; whereas HB 7 expressly prohibits a GURI grant being used as a basis to reduce appropriations to the institution.
- HB 7 limits awards to recruitment of researchers in science, technology, engineering, math, or medicine; SB 632/HB 26 gives priority to those fields.
- HB 7 provides detailed criteria for awards; SB 632/HB 26 does not.
- HB 7 expressly authorizes awards for recruitment of researchers distinguished in basic, transactional, or applied research; SB 632/HB 26 does not.
- HB 7 provides additional criteria for evaluating proposals, including the likelihood that the recruit will not accept a position but for the grant, the extent of interdisciplinary and collaborative research, and the commercialization track record of the recruit; SB 632/HB 26 does not.
- HB 7 preserved the confidentiality of information that would identify the recruit that is the subject of a grant proposal; SB 632/HB 26 does not.

Governor's University Research Initiative: (incorporating provisions from HB 29) The GURI Fund will provide matching grant funds for institutions of higher education to recruit a distinguished researcher (i.e. a Nobel laureate or member of the National Academy of Sciences, The National Academy of Engineering, The Institute of Medicine, or National Research Council). GURI matching grants may not be used to recruit distinguished researchers from other Texas institutions of higher education, or from private or independent institutions of higher education. In making awards, priority will be given to recruiting distinguished researchers in science, technology, engineering and mathematics (STEM). Among STEM proposals, priority will be given to researchers who demonstrate a reasonable likelihood of contributing substantially to the state's national and global economic competitiveness. The GURI will be administered by the Texas Economic Development and Tourism Office within the Governor's office and the GURI Fund will be a dedicated account in the general revenue fund.

Abolishing the Texas Emerging Technology Fund: Effective September 1, 2015, SB 632 repeals Government Code Chapter 490 thereby abolishing the TETF. 50% of the unexpended balance in the TETF will be transferred to the Texas Enterprise Fund, and 50% of the unexpended balance in the TETF will be transferred to the GURI Fund. Abolishing the TETF does not affect the validity of contracts entered into before September 1, 2015. TETF contracts providing for distribution of royalties from commercialization of intellectual and real property developed from the TETF will continue to be distributed in accordance with the contract, and royalties accruing to the state will be credited to the GURI Fund. Encumbered (before September 1, 2015) but undistributed funds from the TETF shall be distributed from the GURI Fund in accordance with the terms of the TETF contract unless the recipient and governor agree otherwise. When TETF Award funds are fully distributed under a contract, the recipient will be considered to have fulfilled its obligations under the contract, and shall file a final report showing the purposes for which the funds were expended. The recipient is not required to return to the state any money received under the contract. Enrolled SB 632 incorporates several provisions very similar to HB 29.

Trust Company: (incorporating provisions from HB 29) The Texas Treasury Safekeeping Trust Company (Trust Company) shall manage the equity positions taken by the state in companies receiving TETF awards prior to September 1, 2015, and any other investments made in connection with a TETF award before September 1, 2015. The Trust Company shall begin winding up the state's portfolio of equity and other investments by selling the stock when it is economically advantageous. Proceeds from the sale of equity and other investments shall be deposited into the GURI Fund.

Confidential Information: Information collected by the TETF concerning the identity, background, finance, marketing plans, trade secrets, or other sensitive information of an individual or entity applying for or receiving an award is confidential unless the individual or entity consents to disclosure. The following public (non-confidential) information may be disclosed: 1) name and address of the individual or entity that received an award, 2) amount of the award, 3) a brief description of the project funded, 4) a brief description of the equity position taken on behalf of the state, and 5) any other information with the consent of the governor, lieutenant governor, speaker of the house, and the individual or entity which received the award.

Reporting Requirements: (new provision, not previously outlined in any bill) Before the beginning of each legislative session, the governor shall submit a report on grants made from the GURI Fund that states: 1) the total amount of matching funds granted by the GURI Fund, 2) the total amount of matching funds granted to each institution, 3) a brief description of the distinguished researcher recruited, 4) a brief description of the expenditures made from the grants for each researcher, and 5) a brief description of each researcher's contribution to the state's economic competitiveness (i.e. patents issued and external research funding). The governor may require a grant recipient to provide such information to complete the report.

**Impact:** The creation of GURI provides a significant opportunity for System institutions to compete for awards to recruit distinguished researchers. Note that SB 632 provides some System institutions with current awards a compliance process to wind up existing award contracts. The creation of the GURI provides a significant opportunity for System institutions to compete for awards to recruit distinguished researchers; the GURI Fund will provide a *new source of funding* for System institutions to assist them in recruiting distinguished researchers from outside the State of Texas. Researchers recruited using GURI Fund grants may be required to provide information to the governor's office to complete its bi-annual report.

**Implementation:** The provost or other appropriate officer should coordinate the efficient winding up of existing TETF grant awards and encourage the institution to

promptly apply for funding under GURI, although the governor's office will likely be deliberate in preparing for implementation of the program.

**Effective:** September 1, 2015

BethLynn Maxwell

[SB 1457](#) by Nichols and Clardy

Relating to bad faith claims of patent infringement.

SB 1457 adds a new Subchapter (L) to Chapter 17 of the Business & Commerce Code (Uniform Commercial Code, Deceptive Trade Practices), which would prohibit persons from sending 10 or more "bad faith claims of patent infringement" to Texas residents in a calendar year. SB 1457 defines a "bad faith" claim of patent infringement as a communication where the sender claims the recipient is liable for patent infringement and:

- the communication falsely states the sender has filed a lawsuit;
- the claim is objectively baseless because (a) the sender does not have a current right to license or enforce the patent, (b) the patent has been held invalid, or (c) the allegedly infringing activity occurred after the patent expired; or
- the communication is likely to materially mislead because it does not contain the identity of (a) the sender, (b) the patent, and (c) at least one product of the recipient which is allegedly infringing the patent.

SB 1457 provides the Attorney General with the authority to bring an action on behalf of the state for an injunction. The Attorney General may also request: 1) civil penalties up to \$50K per violation, 2) costs to the state for investigation and prosecution, and 3) restitution to the victim for legal expenses.

SB 1457 also amends Penal Code Section 38.12 (Barratry and Solicitation of Professional Employment) by adding a new subsection 7 making it a Class A misdemeanor to knowingly initiate a bad faith suit for patent infringement.

**Impact:** SB 1457 will likely not impact UT institutions' rights to license or enforce the Board's patents, provided UT institutions do not send any such "bad faith" claims. UT Institutions receiving "bad faith" claims of infringement will need to report receipt of bad faith claims to the Attorney General for any enforcement actions under SB 1457; however, SB 1457 does not expressly provide a mechanism for recipients to notify the Attorney General.

**Implementation:** SB 1457 empowers the Attorney General to enforce the provisions of this bill. If a UT institution receives a "bad faith" claim of infringement for which it believes enforcement is warranted, the institution must request such enforcement from the Attorney General. SB 1457 provides no formal procedure for such notice. The Attorney General can bring an action to enjoin a person from violating the statute and may also request a court order for "any other relief that may be in the public interest," including a

civil penalty of up to \$50,000 for each violation, reimbursement to the state of the reasonable value of investigation and prosecution, and restitution to a victim for legal and professional expenses related to a violation.

**Effective:** September 1, 2015

James L. Cox II

## Utilities

[HB 1535](#) by Frullo, et al. and Fraser

Relating to rates of and certificates of convenience and necessity for certain non-ERCOT electric utilities; authorizing a surcharge.

This bill applies to electric utilities (EUs) that operate solely outside of ERCOT.

Section 1: Adds Section 36.112, of the Utilities Code, requiring the regulatory authority when establishing base rates of a non-ERCOT EU, to determine the EU's revenue requirement based on, at the election of the EU: (1) information submitted for a test year, or (2) information submitted for a test year, *updated* to include information that reflects the most current actual or estimated information regarding increases and decreases in the EU's cost of service. Section 36.112 expires September 1, 2023.

Section 2: Adds Section 36.211 of the *Utilities Code*, requiring the regulatory authority to require non-ERCOT EUs to true-up for overages and shortages in rates collected from customers. Section 36.211 expires September 1, 2023.

Section 3: Adds Section 36.212 of the *Utilities Code*, requiring non-ERCOT EUs to initiate comprehensive base rate proceedings at specified intervals and under specified conditions. Section 36.212 also expires on September 1, 2023.

Section 4: Adds Section 37.058 of the Utilities Code, providing procedures for non-ERCOT EUs to file requests for (1) certificates for electric generating facility, and/or (2) public interest determinations for the purchase of an existing electric generation facility.

This bill is not intended to affect the exercise of municipal jurisdiction under Chapter 33 of the Utilities Code.

**Impact:** This bill encourages investment in electric infrastructure located in non-ERCOT areas of the state by reducing regulatory lag and allowing non-ERCOT utilities to recover investments closer to the time that customers benefit from those investments. Reducing regulatory lag will help non-ERCOT utilities keep up with the public's infrastructure needs and improve reliability.

This bill may impact electric rates for UT institutions receiving services from non-ERCOT EUs, including El Paso Electric Company (EPE). UTEP is a customer of EPE.

**Implementation:** Advise administrators (including personnel responsible for electric utilities) at UT institutions with facilities located outside of ERCOT about the impact of this bill.

**Effective:** June 17, 2015

Dana Hollingsworth

[HB 2767](#) by Keffer and Perry

Relating to the powers, duties, and administration of groundwater conservation districts; amending provisions that authorize fees.

HB 2767 amends Chapter 36 of the Water Code through numerous clean-up provisions and non-substantive revisions regarding fees, financial audits, appeals of permit decisions, and commission inquiries and reports. One substantive change is to the procedure for adding land to a district through landowner petition.

The bill would allow the addition of non-contiguous acreage to a district upon petition of a majority of landowners in the territory to be added, at least 50 landowners if number of landowners exceeds 50, or the commissioners court if the area is identified as a priority groundwater management area or includes the entire county. An election would be required to ratify the annexation by a majority vote of the voters within the territory. Permanent University Fund (PUF) lands are not exempted from these provisions of Chapter 36.

**Impact:** HB 2767 could result in PUF lands being added to non-contiguous groundwater district territory through petition by landowners adjoining PUF lands.

**Implementation:** University Lands should monitor petitions to add land to groundwater conservation districts to assure that non-contiguous PUF lands are not added if that would be detrimental to the interests of the PUF.

**Effective:** June 10, 2015

Jim Phillips

[SB 932](#) by Fraser and Cook

Relating to the authority of the Public Utility Commission of Texas to retain assistance for federal proceedings affecting certain electric utilities and consumers.

This bill adds Section 39.408 (applicable to investor-owned electric utilities operating solely outside of ERCOT having fewer than six synchronous interconnections with voltage levels above 69 kilovolts system wide) and Section 39.504 (applicable to certain investor-owned electric utilities operating solely outside of ERCOT) to the Utilities Code authorizing the Public Utility Commission (PUC) to retain, subject to certain restrictions,



a consultant, accountant, auditor, engineer, or attorney to represent the PUC in proceedings before the Federal Energy Regulatory Commission (FERC), or before a court reviewing FERC proceedings. Sections 39.408 and 39.504 require the electric utility (EU) to pay reasonable costs of the services up to but not exceeding \$1.5 million in a 12-month period and permit the EU to recover these costs from its customers through a rate rider.

**Impact:** This bill relates to Entergy cases being adjudicated before FERC. This bill could increase electric rates of UT facilities taking electric service from Entergy. Note that a rider increasing rates must be reviewed and approved by the PUC.

**Implementation:** Notify UT administrators, including personnel responsible for electric utilities, of the potential impact of this bill.

**Effective:** September 1, 2015

Dana Hollingsworth

[SB 789](#) by Eltife and Geren

Relating to the authority of certain municipalities to provide sewer service to areas within the municipal boundaries without obtaining a certificate of public convenience and necessity.

This bill adds Section 13.2475 to the Water Code to permit specific municipalities (munis) within a narrowly defined geographic area to provide sewer service to an area entirely within the muni's boundaries without obtaining a certificate of public convenience and necessity, regardless of whether the area to be served is certificated to another retail public utility.

This bill also authorizes the Public Utility Commission to adopt rules and establish procedures relating to notice requirements set out in Section 12.2475.

**Impact:** This bill appears to apply to the City of Tyler and may result in competitive sewer services within the City of Tyler's boundaries. In the alternative, this bill may be intended to provide a smooth transition from the current provider of sewer services to the City of Tyler.

If UT Tyler and UT HSC Tyler are located within the boundaries of the City of Tyler, then this bill may result in a competitive market for sewer services or change in sewer service providers.

**Implementation:** Inform administrators, including personnel responsible for utilities, at UT Tyler and UT HSC Tyler that this bill may impact sewer service and sewer services rates to those institutions.

**Effective:** September 1, 2015

Dana Hollingsworth

[SB 774](#) by Fraser and Thompson, et al.

Relating to studies on the rates of electric utilities.

This bill amends Sections 36.210(h) and (i) of the Utilities Code to extend (1) the deadline for the Public Utility Commission's (PUC) study analyzing periodic rate adjustments established under Section 36.210 to January 31, 2019, and (2) the expiration of Section 36.210 to September 1, 2019.

This bill also adds new Section 36.310(h-1) requiring the PUC to study and provide a report on (1) alternative ratemaking mechanisms adopted by other states, and (2) recommendations regarding appropriate reforms to the ratemaking process in Texas to provide efficient and adequate oversight of electric utilities.

**Impact:** The results of this study have the potential to impact ratemaking processes that establish utility rates for UT institutions.

**Implementation:** Inform UT administrators, including personnel responsible for utilities, that these studies will take place. Appropriate UT personnel may want to monitor the progress of the studies and the resulting report.

**Effective:** September 1, 2015

Dana Hollingsworth

### **Trusts, Estates, and Charitable Organizations**

[HB 705](#) by Farrar and Ellis

Relating to access to a financial institution account of a person who dies intestate.

A new Chapter 153 is added to the Estates Code allowing certain interested parties to obtain a court order requiring a financial institution to release account balances. Although the statute is designed to give access to heirs and spouses of an intestate decedent, interested parties includes creditors and any other having a property right in or claim against the decedent's estate. "Financial institution" includes banks, saving and loan associations, credit unions and trust companies. "Account" includes checking and savings accounts, certificate of deposits, share accounts and similar arrangements, but not accounts with beneficiary designations such as P.O.D., trust or right of survivorship accounts. The court petition may be brought after 90 days from decedent's death if no petition for appointment of a personal representative is pending and no letters of administration or testamentary have been granted.

**Impact:** If an individual dies intestate owing UT System money such as expenses for education or health care, UT System could obtain an order to determine if there is money in bank accounts which may be applied against such debts.

**Implementation:** The claims division of the Office of General Counsel (and any other legal office enforcing claims by UT system or its institutions) should be notified of this new discovery technique.

**Effective:** September 1, 2015

Donald O. Jansen

[HB 3316](#) by Miller and Hancock

Relating to the time of recording a durable power of attorney for certain real property transactions.

The current Estates Code Section 751.151 requires a durable power of attorney to be filed in the county records for real property transactions that require the execution and delivery of instruments. This can include a release, assignment, satisfaction, mortgage, security agreement, deed of trust, encumbrance, deed of conveyance, oil and gas or other mineral leases, memorandum of lease, lien, or other claim or right to real property. An untimely filing of a durable power of attorney can result in a real property transaction losing legal standing or in a break in the chain of title. The new statute requires that the durable power of attorney be filed not later than the 30<sup>th</sup> day after the date the instrument is filed for recording. This Act applies only to real property transactions entered into on or after the effective date. Former law continues to apply to transactions entered into before the effective date.

**Impact:** If UT System or an institution enters into any of the above real estate transactions where the other party to the transaction has the instrument signed by an agent with a durable general power of attorney, a copy of the durable power must be recorded within 30 days of the recording of the original instrument. The results of the failure to do so are not clear. The bill as filed would have made the transaction voidable but that language was removed before passage.

**Implementation:** Rule 60103, Guidelines for Acceptance of Gifts of Real Property, requires the Real Estate Office and the University Lands Division, with regard to gifts of real estate surface and mineral estates, respectively, to ensure that all deeds are recorded in the county where the surface or minerals are located and retain the original deed in its permanent records. Similarly, Rule 709301 delegates to the Executive Director of Real Estate the power to execute all contracts with regard to real property ,(but excluding PUF and leases of mineral interests) and to the University Lands Division through the Executive Vice Chancellor for Business Affairs for PUF and mineral interests. Thus, the Real Estate Office and the University Lands Division should be alerted to make sure that durable

powers of attorneys used by other parties to real estate contracts with UT System or its institutions are recorded within 30 days.

**Effective:** September 1, 2015

Don Jansen

**SB 462** by Huffman and Farrar

Relating to authorizing a revocable deed that transfers real property at the transferor's death.

Currently, an estate must be probated before real property can be transferred, and the title generally cannot be transferred until all creditors' claims have been satisfied. With this bill, real property could be transferred automatically at the time of death per prior written agreement filed in the county deed records. Creditors would still retain their rights against the real property, but this bill would allow a transfer without court approval first. The statute of limitations for a creditor to pursue real property subject to a transfer on death deed as an asset is now two years from the debtor's date of death.

**Impact:** Under the new law, a creditor may be required to pursue an action against the real property to satisfy a debt if other assets are insufficient to pay the debt. The window to take this action is now relatively short, and could be as little as two years after the death of a debtor.

**Implementation:** UT institutions, in particular the medical institutions, need to be aware that the window for pursuing a debt against real property owned by a debtor could be as short as two years from the debtor's date of death. These debts need to be referred to the Office of General Counsel as soon as possible.

**Effective:** September 1, 2015

Kevin C. Brown

**SB 1020** by Creighton and Murr

Relating to the designation of the trustee of an express trust as a beneficiary of a trust account or a P.O.D. payee of a P.O.D. account.

There has been some uncertainty as to whether an express trust may be a beneficiary of a multiple-party account for estate planning purposes. The Act amends Estates Code Section 113.001, Subdivisions (2) and (5) to designate an express trust evidenced in writing to be a beneficiary of a trust account or as a payable-on-death (P.O.D.) payee of a P.O.D. account. An "express trust" is defined as a fiduciary relationship with respect to property which arises as a manifestation by the settlor of an intention to create the relationship and which subjects the person holding title to the property to equitable duties to deal with the property for the benefit of another person.

**Impact:** Although this Act would have very broad impact, it would also apply to any express trust of which the Board of Regents is a beneficiary or an express charitable trust or charitable remainder trust of which the Board of Regents is the trustee.

**Implementation:** Making a charitable trust a beneficiary of a multiple party account (in order to subject the account proceeds to the provisions of the trust) is not an unusual estate planning technique. Thus the Office of Development and Gift Planning Services and each institution's development office should be made aware of technique.

**Effective:** September 1, 2015

Donald O. Jansen

[SB 1881](#) by Zaffirini and Peña, et. al.

Relating to authorizing supported decision-making agreements for certain adults with disabilities.

This bill added Chapter 1357 to the Estates Code which authorizes an adult with a disability to voluntarily enter into a supported decision-making agreement with a supporter under which the adult with a disability authorizes the supporter to do any or all of the following:

- provide supported decision-making without making those decisions on behalf of the adult with a disability;
- assist the adult in accessing, collecting, and obtaining information that is relevant to a given life decision from any person;
- assist the adult with a disability in understanding such information; and
- assist the adult in communicating the adult's decisions to appropriate persons.
  
- Under the supported decision-making agreement, the supporter is authorized to assist in accessing, collecting, or obtaining information that is relevant to the decision authorized under the agreement.

A person who receives an original or copy of a supported decision-making agreement that substantially complies with the form included at section 137.056 *shall* rely on the agreement. The form contains a provision identifying whether a Health Insurance Portability Act (HIPAA) release is attached.

If a person who receives a copy of a supported decision-making agreement or who is aware of the existence of such an agreement has cause to believe that the adult with the disability has is being abused, neglected or exploited by the supporter, they *shall* report to the Department of Family and Protective Services.

**Impact:** Our UT Health Institutions and healthcare providers may be presented with these supported decision-making agreements in conjunction with a request by the supporter for medical records or medical information relating to the adult with a disability. They will need to be aware of the requirement that the agreement must be in substantially the same form as that set out in the chapter and that a HIPAA compliant release must be attached or

provided in order for the supporter to have access to the HIPAA protected information. They will also need to be aware of the duty to report potential abuse, neglect or exploitation that is in effect once they receive a copy of or are aware of the existence of the supported decision-making agreement.

**Implementation:** There is no active implementation that needs to occur for this legislation. The Medical Records Departments should be provided with this information so they are aware that the designated supporters may be requesting records and our institutions may want to consider adding a section in the patient medical record to indicate whether a supported decision-making agreement exists.

**Effective:** June 19, 2015

Bridget McKinley

### **Insurance and Risk Management**

[HB 3750](#) by Simmons *et al.* and Birdwell

Relating to interim studies on real property owned by the state.

This act requires all state agencies to report detailed information on buildings, facilities and land owned for insurance purposes. The Legislative Budget Board coordinates the collection of comprehensive real property data for delivery to the State Office of Risk Management. A very detailed list of real property data will be collected. Information for a building or facility owned by an institution of higher education shall be collected from the Texas Higher Education Coordinating Board (THECB). The information to be collected by the THECB is less extensive than that required for other state agencies and consists of 10 categories of information as reported to the THECB. Information on land owned by institutions of higher education must be reported by each institution of higher education. The State Office of Risk Management will prescribe the date by which this information must be submitted by state agencies. No later than June 1, 2016, the State Office of Risk Management shall consolidate the information submitted. The Act expires September 1, 2017.

**Impact:** Fulfilling the reporting requirement may take a potentially significant commitment of time and resources to collect the required information.

**Implementation:** The Real Estate Office, the Office of Risk Management, and University Lands will need to coordinate their efforts with the possible involvement of the UT System component institutions to collect the required information.

**Effective:** June 19, 2015

Ed Walts

[SB 1081](#) by Creighton and Huberty

Relating to the disclosure of certain information under a consolidated insurance program.

This bill amends Chapter 151 of the Insurance Code, Consolidated Insurance Programs, to add new Sections 151.003 through 151.008.

The bill requires that a principal (the Owner) provide a great deal of very detailed information about the insurance coverage and its administration on a project that will use a consolidated insurance program. The information must be provided at least 10 days before entering into a construction agreement. Contractors must similarly pass on the information to their subcontractors.

Failure to provide the information can open the door for the contractor or a subcontractor to opt out of the consolidated insurance program and require the principal to pay their insurance costs. If the information is not provided in a timely manner, the contractor or subcontractor cannot be forced to enter into a construction agreement that requires use of the consolidated insurance program.

The bill also allows a contractor to request a complete copy of the insurance policy that provides coverage for the contractor under a consolidated insurance program and makes failure to provide the copy in a timely manner a material breach of the construction agreement.

**Impact:** For many years UT System has administered a consolidated insurance program, the Rolling Owner's Consolidated Insurance Program or "ROCIP," that is used on most major construction projects. While the bill should not have any significant impact on insurance coverage under the program, the new disclosure requirements will require modifications to the processes and procedures used to select and enter into agreements with contractors on projects that are insured under the ROCIP.

**Implementation:** The Office of Facilities, Planning and Construction and the UT System Office of Risk Management will need to revise and coordinate their procedures and processes for selecting and executing an agreement with a contractor on projects insured under the ROCIP to assure compliance with the disclosure requirements.

**Effective:** January 1, 2016

Edwin Smith

## Alcohol

### [HB 824](#) by Kuempel and Eltife

Relating to the sale of alcoholic beverages to customers of a package store during certain hours.

Chapter 22 of the Alcoholic Beverage Code addresses package store permits, which authorize the operation of a package store at which liquor may be sold at retail. HB 824 amends that Chapter 22 to allow a holder of a package store permit to keep that store open for a reasonable period of time after the designated end of the hours for legal sale of alcohol, so that customers who have previously entered that store can finish their shopping and purchase alcoholic beverages.

**Impact:** Any UT institutions with package stores located on their property need to be aware of the changes made by HB 824.

**Implementation:** The business office at each UT institution must determine if any package stores are located on that institution's property and, if so, ensure that all UT personnel involved in overseeing or managing such stores are made aware of HB 824.

**Effective:** June 19, 2015

Scott Patterson

### [HB 909](#) by Phillips and Watson

Relating to the tasting of alcoholic beverages by students enrolled in certain courses.

HB 909 amends the Alcoholic Beverage Code to allow minors to taste (but not swallow or consume) an alcoholic beverage if the minor (1) is at least 18 years old, (2) is enrolled as a student in a course at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology, (3) tastes the beverage for educational purposes as part of the curriculum for such a course and is supervised by a faculty or staff member who is at least 21 years old, and (4) does not purchase the beverage.

However, HB 909 provides that neither a public or private institution of higher education, nor a career school or college, is required to hold a permit or license in order to engage in the above activities.

**Impact:** UT institutions with a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology need to consider how the changes made by HB 909 will affect the courses offered in such a program.



**Implementation:** The academic offices at each UT institution must determine the applicability of the changes made by HB 909 to programs and courses at the institution.

**Effective:** September 1, 2015

Scott Patterson

[HB 1039](#) by Geren and Seliger

Relating to the sale by package stores of containers of liquor with a capacity of less than six fluid ounces.

The Alcoholic Beverage Code authorizes the operation of package stores that can purchase liquor from certain wholesalers and bottlers and sell liquor at retail, subject to certain restrictions as set forth in that Code. One such restriction is in Section 101.46 of the Alcoholic Beverage Code, which states that package stores can only offer to sell containers of liquor with a capacity of less than six fluid ounces if those containers are in sealed packages that feature multiple bottles of liquor. However, HB 1039 repeals that requirement from Section 101.46.

**Impact:** Any UT institutions with package stores located on their property need to be aware of the changes made by HB 1039.

**Implementation:** The business office at each UT institution must determine if any package stores are located on that institution's property and, if so, ensure that all UT personnel involved in overseeing or managing such stores are made aware of HB 1039.

**Effective:** June 19, 2015

Scott Patterson

[HB 2022](#) by Smith and Eltife

Relating to the maximum capacity of a container of wine sold to a retail dealer; amending a provision subject to a criminal penalty.

HB 2022 modifies Section 101.45 of the Alcoholic Beverage Code to increase the maximum size of a container in which a person can sell wine to a retail dealer from 8 gallons to 15.5 gallons.

**Impact:** The change made by HB 2022 would impact any winery operations conducted at UT System or UT institutional facilities.

**Implementation:** The business offices at UT System and the UT institutions should ensure that any winery operations at their facilities are informed of the changes made by HB 2022.

**Effective:** May 28, 2015

Scott Patterson

[HB 2035](#) by Raymond and Zaffirini

Relating to regulation by certain alcohol-related businesses based on the amount of alcohol sold.

Section 109.57 of the Alcoholic Beverage Code states that such a Code exclusively governs the regulation of alcoholic beverages in Texas, and that Texas governmental entities cannot (1) discriminate against a business holding a license or permit under that Code or (2) enact a regulation, charter, or ordinance that imposes stricter standards on premises or businesses required to have a license or permit under the Code than are imposed on similar premises or businesses that are not required to have such a license or permit.

However, Section 109.57 also states that it does not affect the authority of a governmental entity to regulate, in a manner as otherwise permitted by law, the location of certain types of business entities.

HB 2035 modifies Section 109.57 to include in those business entities any establishment that derives 50% or more of its gross revenue from the on-premise sale of alcoholic beverages, if such an establishment is located in a municipality or county any portion of which is located not more than 50 miles from an international border.

**Impact:** If the UT institutions located near the border with Mexico (e.g., U. T. Rio Grande Valley, U. T. El Paso) have business entities meeting the criteria set forth in HB 2035 operating on their campuses or facilities, then those entities may be affected if municipalities or counties enact regulations on the locations of such entities as authorized by HB 2035.

**Implementation:** The UT System Office of Business Affairs should inform the business offices of those UT institutions located near the border with Mexico of the potential impacts of HB 2035.

**Effective:** September 1, 2015

Scott Patterson

[HB 2533](#) by Goldman and Seliger

Relating to the repeal of an offense prohibiting offensive noise on a premises covered by an alcoholic beverage license or permit.

HB 2533 repeals Section 101.62 of the Alcoholic Beverage Code, which prohibited a holder of an alcoholic beverage permit or license to maintain or permit on any premises

under their control any devices (e.g., radios, televisions, phonographs, etc.) or persons (e.g., orchestras, bands, singers, speakers, or entertainers) that produce, amplify, or project music or other sound that is loud, vociferous, vulgar, indecent, lewd, or otherwise offensive to persons on or near the licensed premises.

**Impact:** The repeal of Section 101.62 of the Alcoholic Beverage Code by HB 2533 may impact the operations of any premises on UT property that is controlled by the holder of an alcoholic beverage permit or license.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the repeal of Section 101.62 of the Alcoholic Beverage Code by HB 2533.

**Effective:** September 1, 2015

Scott Patterson

[HB 3982](#) by Romero, Jr., et al. and Lucio

Relating to solicitation of a person to buy drinks for consumption by an alcoholic beverage retailer or the retailer's employee; authorizing a civil penalty; amending a provision that is subject to a criminal penalty.

Section 104.01 of the Alcoholic Beverage Code establishes prohibitions on lewd, immoral, and indecent conduct on the premises of a retailer authorized to sell beer. One act so prohibited by Section 104.01 is the solicitation of any person to buy drinks for consumption by a retailer or any of its employees.

HB 3982 modifies Section 104.01 to provide that such a solicitation is legally presumed to occur if an alcoholic beverage is sold or offered for sale for an amount in excess of the retailer's listed, advertised, or customary price. Furthermore, such a presumption may be rebutted only by evidence that is presented under oath.

Furthermore, Section 11.64 of the Alcoholic Beverage Code provides that the Alcoholic Beverage Commission may, instead of suspending a license or permit under that Code, give the holder of that permit or license the opportunity to pay a civil penalty. However, Section 11.64 further provides that the Commission cannot offer such an alternative of a civil penalty if the basis of the suspension is a violation of certain specific provisions of that Code.

HB 3982 modifies Section 11.64 to provide that the prohibition in Section 104.01 forbidding solicitation of a person to buy drinks for consumption by a retailer or its employees is one of the specific provisions of the Alcoholic Beverage Code for which a civil penalty cannot be offered as an alternative to permit or license suspension.

**Impact:** The changes made by HB 3982 may impact an alcoholic beverage retailer operating on UT property.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the changes to the Alcoholic Beverage Code made by HB 3982.

**Effective:** September 1, 2015

Scott Patterson

**SB 540** by Eltife and Thompson, et al.

Relating to the hours during which a holder of a retail dealer's on-premise late hours license may sell beer.

SB 540 modifies Section 70.01 of the Alcoholic Beverage Code to clarify that a holder of a retail dealer's on-premise late hours license may sell beer for consumption on those premises on Sundays between 1:00 a.m. and 2 a.m. and on other days between 12 p.m. and 2 a.m., but only if the premises covered by the license is (per Section 105.05 of the Alcoholic Beverage Code):

- in a city or county having a population of 800,000 or more, according to the last preceding federal census,
- in a city or county having a population of 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001,
- in the unincorporated areas of a county that does not meet the requirements of (a) or (b) above, if the extended hours are adopted by an order of that county's commissioners court, or
- in an incorporated city or town that does not meet the requirements of (a) or (b) above, if the extended hours are adopted by an ordinance of the governing body of that city or town.

**Impact:** The changes made by SB 540 are pertinent to any holders of a retail dealer's on-premise late hours license that operate on UT property.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the clarifications made to the Alcoholic Beverage Code by SB 540.

**Effective:** June 1, 2015

Scott Patterson

**SB 1651** by Eltife and Murr

Relating to the employment of persons under 18 years of age on the premises of certain businesses selling or serving alcoholic beverages; adding a provision that is subject to a criminal penalty.

Section 106.09 of the Alcoholic Beverage Code provides that, except for certain exceptions, it is prohibited to employ a person under 18 years of age to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

SB 1651 modifies Section 106.09 to add a new exception to the above prohibition. Specifically, a holder of a permit or license providing for the on-premises consumption of alcoholic beverages may employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if:

- the permit or license holder derives less than 50 percent of its gross receipts for that premises from the sale or service of alcoholic beverages, and
- the alcoholic beverages are served by a person 18 years of age or older.

**Impact:** The changes made by SB 1651 are pertinent to any holders of permits or licenses for the on-premises consumption of alcoholic beverages that operate on UT property.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the new exception implemented by SB 1651.

**Effective:** May 19, 2015

Scott Patterson

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## Employment

[HB 699](#) by Nevárez, et al. and Uresti

Relating to requiring public institutions of higher education to establish a policy on campus sexual assault.

This bill amends the Education Code by adding Section 51.9363.

"Institution of higher education" has the meaning assigned by Section 61.003 of the Education Code (and thus applies to all UT System institutions). Each institution of higher education must adopt a policy on campus sexual assault. The policy must include (A) definitions of prohibited behavior; (B) sanctions for violations; and (C) the protocol for reporting and responding to reports of campus sexual assault. In addition, the policy must be approved by the institution's governing board before final adoption by the institution.

This bill further requires that each institution of higher education shall make the institution's campus sexual assault policy available to students, faculty, and staff members by: (1) including the policy in the institution's student handbook and personnel handbook; and (2) creating and maintaining a web page on the institution's Internet website dedicated solely to the policy.

This bill also requires that each institution of higher education require each entering freshman or undergraduate transfer student to attend an orientation on the institution's campus sexual assault policy before or during the first semester or term in which the student is enrolled at the institution. Each institution is required to establish the format and content of the orientation.

Finally, this bill also provides that each biennium, each institution of higher education shall review the institution's campus sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary.

**Impact:** This bill impacts all UT System institutions requiring each to review and revise sexual assault policies and websites to ensure compliance with this bill. This bill also requires prior approval from the Board of Regents prior to adoption by each institution. Finally, these policies will require review each biennium. Currently, Board of Regents' Rule 20201 requires that each institution's rules and regulations for the governance of the institution and any related amendments (i.e., Handbook of Operating Procedures (HOPs)—which includes policies related to sexual harassment and misconduct) be approved and submitted to the appropriate Executive Vice Chancellor and the Vice Chancellor and General Counsel. The bill, as written, does not account for this delegation of authority to the Executive Vice Chancellor and the Vice Chancellor and General Counsel for approval of HOPs. Therefore, the impact of this bill, as written, would require a revision to the Regents' Rule.

**Implementation:** This bill applies beginning the 2015 fall semester.

**Effective:** June 19, 2015



Melissa V. Garcia

[HB 3337](#) by Clardy, et al. and Nelson

Relating to training and education for state agency administrators and employees.

This bill amends Chapter 656 of the Government Code and provides additional guidelines for a state agency's payment of expenses for employee training and education. The bill does the following:

- As it relates to employees at state agencies who seek reimbursement for training and education programs offered by institutions of higher education, a state agency can only pay tuition expenses for a program course successfully completed by the administrator or employee at an accredited institution of higher education.
- Agency policies must provide that before an employee of the agency can be reimbursed for tuition, the executive head of the agency must authorize the tuition reimbursement payment. The policy must also provide clear and objective guidelines to govern tuition reimbursement, and address tuition reimbursement for nontraditional training, including online courses or courses not credited towards a degree. The agency must post the policy on the agency's internet website.

**Impact:** The bill requires the use of accredited institutions of higher education for state agency employee tuition reimbursement. As a system of accredited institutions of higher education, this bill should have a positive impact on each of our institutions.

**Implementation:** UT System and its component institutions should review their policies on training and tuition reimbursement to ensure that their policies are posted online and comply with the new requirements of HB 3337.

**Effective:** September 1, 2015

Jason King

[HB 1151](#) by Thompson, et al. and Garcia

Relating to sexual harassment protection for unpaid interns.

HB 1151 adds Section 21.1065 "Sexual Harassment Protections for Unpaid Interns" to the Labor Code. Pursuant to this bill, an unpaid intern would be protected against sexual harassment.

An individual is considered to be an unpaid intern of an employer if, 1) the internship is similar to training that would be given in an educational environment, 2) the internship is for the intern's benefit, 3) the intern does not displace a regular employee but works under close supervision of the employer's existing staff, 4) the employer does not derive any immediate advantage from the intern's activities and on occasion the employer's operations may be impeded by those activities, 5) the intern is not entitled to a job at the conclusion

of the internship, and 6) the intern is not entitled to wages for the time spent in the internship.

The change in the law made by this bill would only apply to a claim of discrimination based on conduct that occurs on or after the effective date of this bill.

**Impact:** This bill would apply to UT System and its institutions. Any employee that works with unpaid interns would need to have knowledge of the requirements of Section 21.1065.

**Implementation:** UT System and each institution should review its policies and procedures to confirm that the policies related to sexual harassment include protection for unpaid interns. Any sexual harassment training modules should contain information regarding sexual harassment protection for unpaid interns.

**Effective:** September 1, 2015

Tamra J. English

[HB 1783](#) by Moody, et al. and Menéndez

Relating to the right of a school employee to report a crime, persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency, and the reporting of criminal history record information of educators and other public school employees who engage in certain misconduct; creating a criminal offense.

HB 1783 requires a superintendent or director of a school to report to the State Board for Educator Certification if the educator's employment was terminated based on evidence that the educator was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor, or the educator resigned in light of evidence that there was misconduct involving a student or minor. Further, HB 1783 requires that an investigation of certain allegations involving misconduct with a student or minor be completed despite the resignation of the educator. HB 1783 prohibits a school from adopting a policy requiring a school employee to refrain from reporting a crime witnessed at the school or limiting their right to report a crime. HB 1783 also makes it a crime to coerce another into suppressing or failing to report information regarding violations of law to a law enforcement agency.

**Impact:** HB 1783 impacts UT System institution charter schools. They will be required to report certain allegations involving misconduct with a student or minor to the State Board for Educator Certification. They will also be required to complete an investigation of certain allegations of misconduct despite an educator's resignation. HB 1783 should not significantly impact UT System institution charter schools since policies with similar requirements should already be in place.

**Implementation:** UT System institution charter schools should review policies regarding educator misconduct to ensure that they comport with HB 1783 requirements (as well as UT System Sexual Misconduct policy) and include the requirement of SBEC

notification. They should also ensure that there is no policy or practice prohibiting an employee from reporting a crime to any peace officer with the authority to investigate.

**Effective:** September 1, 2015

Priscilla A. Lozano

**SB 805** by Campbell, et al. and Raney, et al.

Relating to the employment of individuals qualified for a veteran's employment preference.

SB 805 amends the Government Code by changing the definition of "veteran," used for purposes of statutory provisions governing a veteran's employment preference, to mean a person who has been honorably discharged from serving in: (1) the U.S. armed forces; (2) the Texas military forces; or (3) an auxiliary service of one of those branches of the armed forces.

SB 805 also removes a statutory provision entitling an individual who qualifies for a veteran's employment preference to a preference in employment with or appointment to a public entity or for a public work of the state and instead entitles such an individual to a preference in employment with or appointment to a state agency. The bill defines "state agency" for this purpose as a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government, including an institution of higher education. The bill removes the application of statutory provisions governing such employment preferences to a public entity or public work, including provisions establishing certain requirements relating to investigating applicants, reporting to the comptroller of public accounts, listing open positions with the Texas Workforce Commission (TWC), and responding to complaints. The bill instead applies those provisions to a state agency. The bill removes a statutory provision providing for complaints about a decision relating to a veteran's employment preference to be filed with the governing body of the public entity or public work and instead provides for those complaints to be filed with the executive director of the state agency.

Additionally, SB 805 removes statutory language restricting the positions in which a veteran with a disability is entitled to a preference for employment or appointment over all other applicants who are not veterans with a service-connected disability and who do not have a greater qualification to positions for which a competitive examination is not held. Instead, a state agency is now required to provide to an individual entitled to a veteran's employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a veteran's employment preference, in the following order of priority: (1) a veteran with a disability; (2) a veteran; (3) a veteran's surviving spouse who has not remarried; and (4) an orphan of a veteran if the veteran was killed while on active duty. The bill removes a statutory provision establishing that a veteran's employment preference does not apply to the position of private secretary or deputy of an official or department or to a person holding a strictly confidential relation to the appointing or employing officer.

SB 805 removes the requirement that an individual whose duty is to appoint or employ individuals for a public entity or public work of the state give preference in hiring to individuals entitled to a veteran's employment preference so that at least 40 percent of the employees of the public entity or public work are selected from individuals given that preference. The bill instead requires each state agency to establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the agency and authorizes an agency to establish a veteran employment goal greater than that percentage. The bill removes the requirement that a public entity or public work, when possible, give 10 percent of the veteran's employment preferences to qualified veterans discharged from the U.S. armed services within the preceding 18 months. The bill removes a statutory provision that exempts a public entity or public work that has at least 40 percent of its employees who are entitled to a veteran's employment preference from the requirements to investigate the qualifications of an applicant who is entitled to a veteran's employment preference and to employ the applicant if the applicant meets certain criteria.

SB 805 authorizes a state agency to designate an open position as a veteran's position and only accept applications for that position from individuals who are entitled to a veteran's employment preference. The bill authorizes an agency to hire or appoint for an open position within the agency an individual entitled to a veteran's employment preference without announcing or advertising the position if the agency uses the automated labor exchange system administered by the TWC to identify an individual who qualifies for a veteran's employment preference and if the agency determines the individual meets the qualifications required for the position.

SB 805 requires each state agency that has at least 500 full-time equivalent positions to designate an individual from the agency to serve as a veteran's liaison and authorizes an agency that has fewer than 500 full-time equivalent positions to make such a designation. The bill requires each state agency that designates a veteran's liaison to make available on the agency's website the liaison's individual work contact information. The bill requires a state agency, for each announced open position at the agency, to interview at least one individual qualified for a veteran's employment preference if the total number of individuals interviewed for the position is six or fewer or a number of individuals qualified for a veteran's employment preference equal to at least 20 percent of the total number interviewed for the position if the total number of individuals interviewed for the position is more than six.

SB 805 removes a requirement for an officer or the chief executive of a public entity or public work of the state or an individual whose duty is to appoint or employ an applicant for a position with a public entity or public work of the state, as applicable, to appoint or employ an applicant entitled to a veteran's employment preference if the applicant is of good moral character and can perform the duties of the position. The bill specifies that the statutory provision entitling an individual who is entitled to a veteran's hiring preference to a preference in retaining employment if the agency that employs the individual reduces its workforce also applies to an individual entitled to an appointment preference if the state agency that appoints the individual reduces its workforce.

SB 805 requires the comptroller to make each quarterly report filed by a state agency with regard to veteran employment preferences available to the public on the comptroller's website. The bill revises the requirement that the report state the percentage of the total number of employees hired by the agency during the reporting period who are persons entitled to a veteran's employment preference by providing for the inclusion in that percentage of appointed employees who meet such criteria. The bill establishes a deadline of not later than December 1 of each year for the comptroller's annual report to the legislature that compiles and analyzes information the comptroller receives from state agencies in such quarterly reports.

SB 805 includes a decision of a state agency relating to appointing an individual entitled to a veteran's employment preference among the employment decisions relating to such a preference that may be appealed by filing a written complaint with the executive director of the state agency.

SB 805 amends the Labor Code to authorize a private employer to adopt a policy under which the employer may give a preference in employment decisions regarding hiring, promotion, or retention to a veteran, defined by the bill as an individual who has served on active duty in the armed forces of the United States and was honorably discharged from military service, over another qualified applicant or employee. The bill requires such a policy to be in writing and requires an employer to apply the policy reasonably and in good faith in employment decisions regarding hiring, promotion, or retention during a reduction in the employer's workforce. The bill authorizes an employer to require appropriate documentation from a veteran for the veteran to be eligible for the preference under such a policy. The bill establishes that granting a preference in accordance with a policy adopted under the bill's provisions does not violate statutory provisions relating to employment discrimination.

**Impact:** This bill impacts UT System and its institutions by requiring them to comply with all revisions to the statute. SB 805 broadens the scope of individuals that qualify for a veteran's preference which may increase the number of veteran applicants. SB 805 also decreases the veteran employment from 40% to 20% of the total number of employees of the state agency. Additionally, the bill specifies that the positions must be full-time. SB 805 will allow UT System or its institutions to designate an open position as a veteran's position and only accept applications for that position from individuals that are entitled to a preference. In certain circumstances, these positions do not have to be announced or advertised. SB 805 also mandates a certain number of veteran individuals be interviewed depending upon the total number of candidates interviewed. This may impact how certain job openings are posted and recruited.

**Implementation:** To the extent it has not already been done, UT System and each institution will need to designate an individual to serve as a veteran liaison and make this information available on the entity's website. Any existing policies pertaining to a veteran's employment preference should be reviewed and revised to ensure compliance with the statute.

**Effective:** September 1, 2015

**SB 374** by Schwertner, et al. and Dale

Relating to requiring state agencies to participate in the federal electronic verification of employment authorization program, or E-Verify.

SB 374 requires a state agency to register and participate in the E-Verify program to verify the work authorization of all new employees.

**Impact:** SB 374 impacts UT System and all UT System institutions because each is a “state agency” and, as such, is required to enroll in the E-Verify program to verify the employment authorization status of each newly hired employee. Under federal immigration law, employers are required to use the I-9 process to verify the work authorization of a newly hired employee, but except in the case of federal contractors, use of the E-Verify program is voluntary. Under SB 374 UT System and UT institutions are required to complete the I-9 and verify the information received through use of E-Verify which checks the I-9 information against federal databases.

**Implementation:** Current UT policies requiring compliance with the federal I-9 process must be amended to ensure compliance with both federal and now this state law. Enrollment in the E-Verify program requires the employer to register online and complete a Memorandum of Understanding (“MOU”) with the federal government. The MOU governs program training requirements, procedure, and privacy. For UT System and the UT institutions that are not currently enrolled in the program or are not using the program for all new employees, this law results in a change in processes and retraining of administrative personnel involved in the hiring process regarding employment verification. The Texas Workforce Commission is required to adopt rules to implement SB 374.

**Effective:** September 1, 2015

Priscilla A. Lozano

**SB 273** by Campbell, et al. and Guillen

Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty.

Amends Chapter 411, Government Code, by adding Section 411.209 to provide that:

A state agency may not provide oral or written notice or by any sign that a license holder carrying a handgun is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

A state agency that violates this section is liable for a civil penalty of not less than \$1,000 and not more than \$1,500 for the first violation; and not less than \$10,000 and not more

than \$10,500 for the second or a subsequent violation. Each day of a continuing violation constitutes a separate violation.

A citizen of this state or a person licensed to carry a concealed handgun may file a complaint with the attorney general that a state agency is in violation if the citizen or person provides the agency a written notice that describes the violation and specific location of the sign found to be in violation and the agency does not cure the violation before the end of the third business day after the date of receiving the written notice.

Before a suit may be brought against a state agency for a violation, the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency charged with the violation a written notice that:

- describes the violation and specific location of the sign found to be in violation;
- states the amount of the proposed penalty for the violation; and
- gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency was found liable by a court for previously violating this section.

If the attorney general determines that legal action is warranted and that the state agency has not cured the violation within the 15-day period, the attorney general may sue to collect the civil penalty and may also apply for other appropriate equitable relief. A suit or petition may be filed in a district court in Travis County or in a county in which the

principal office of the state agency is located. The attorney general may recover reasonable expenses incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

Amends Section 46.035(c), Penal Code, to provide that:

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

**Impact:** UT System and UT institutions may be sued by the Attorney General for civil penalties and other expenses, for providing oral or written notice that a license holder carrying a handgun is prohibited from entering a UT building or land, if Penal Code sections 46.03 or 46.035 do not prohibit a license holder from carrying a handgun in the UT building or on the UT land.

**Implementation:**

- Training for UT System and UT institution police.
- Educational materials for campus administrators.

**Effective:** September 1, 2015

Jack C. O'Donnell

[SB 389](#) by Rodríguez, et al. and Blanco

Relating to the placement of military occupational specialty codes on certain notices of state agency employment openings.

SB 389 requires a state agency to include on all forms and notices related to a state agency employment opening the corresponding military occupational specialty code (“MOS”) for each branch of the armed forces. Each biennium, the state classification officer is to determine the MOS that corresponds to positions in the state’s classification plan.

Under Section 654.012(6), Government Code, personnel in state institutions of higher education are exempt from the state classification plan. The bill also adds Section 656.002 to Subchapter A, Chapter 656, Government Code, which requires a “state agency” to include the MOS code. There is no definition of “state agency” provided by the new section, nor does the subchapter to which it is added supply a definition. Although the definition of “state agency” in Subchapter B expressly includes “institutions,” the definition distinguishes between an “agency” and an “institution.” In addition, the principle operative sections of Subchapter B apply only to notice of vacancies in Travis County.

Accordingly, SB 389 does not expressly apply to institutions of higher education. (But see “Impact” below.)

**Impact:** The legal conclusion that SB 389 does not require institutions of higher education to include the corresponding MOS code is different from the policy considerations. Given the general nature of the legislature to be veteran-friendly, the stated intent of UT System to be veteran-friendly, and the fact that the veteran’s employment preferences statute—Chapter 657, Government Code—was amended this session by SB 805 to expressly apply to IHEs, it is a best practice for institutions to include MOS codes to the extent possible on forms and notices even if the statute does not expressly require it.

**Implementation:** If institutions choose to include MOS codes as a best practice, the human resources office will need to determine the corresponding MOS code. System administration employee services may wish to consult with the state classification officer to determine the extent to which that officer’s determinations may be relevant to higher education positions.

**Effective:** September 1, 2015



## Compensation and Leave

[HB 445](#) by Raney, et al. and Lucio

Relating to providing notice of the availability of paid leave for military service to public officers and employees.

HB 445 amends Government Code Section 437.202 by adding subsection (e), which provides that a state, municipality, county or political subdivision shall provide written notice of the number of workdays of paid leave to which an officer or employee is entitled each fiscal year and, if applicable, the number of workdays of paid leave to which on office or employee is entitled to carry forward each fiscal year. Notice shall be provided to employees on employment. Notice for an officer shall be as soon as practicable after appointment or election.

HB 445 adds subsection (f) which provides that the state, a municipality, a county, or another political subdivision of this state shall, on the request of an officer or employee, provide a statement that contains: (1) the number of workdays for which the officer or employee claimed paid leave in that fiscal year; and (2) the net balance of unused accumulated leave for that fiscal year that the officer or employee is entitled to carry forward to the next fiscal year and the net balance of all unused accumulated leave under this section to which the officer or employee is entitled.

**Impact:** Any office that is responsible for recording employee absence entitlement balances should be aware of the changes to Government Code Section 437.202.

**Implementation:** If not already included, the program used to record absence entitlement balances for employees should be updated to include a section that keeps track of paid leave of absence for a person (member or the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team) engaged in authorized training or duty ordered or authorized by the proper authority.

**Effective:** September 1, 2015

Tamra J. English

[HB 1771](#) by Raney, et al. and Kolkhorst

Relating to the donation of sick leave by state employee.

HB 1771 adds Section 661.207 to the Government Code which allows an employee to donate any amount of the employee's accrued sick leave to another employee who 1) is employed in the same state agency as the donor employee; and 2) has exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool. Both the text of the statute and contemporary legislative analyses make it clear that this is an employee-to-employee donation, in contrast to a donation to a sick

leave pool, intended to give the donor employee control as to which individual receives the donated time.

HB 1771 provides that an employee may not provide or receive remuneration or a gift in exchange for a sick leave donation under this section.

HB 1771 adds restrictions to how an employee can use donated sick leave. The new language provides that (c) An employee who receives donated sick leave may not: (1) use sick leave donated to the employee under this section except as provided by Sections 661.202(d) and (e); or (2) notwithstanding any other law, receive service credit in the Employees Retirement System of Texas for any sick leave donated to the employee under this section that is unused on the last day of that employee's employment.

**Impact:** Each institution will need to adopt or revise policies to facilitate the authorized employee-to-employee sick leave donations. Such a donation, in contrast to donation to a sick leave pool, is a taxable event to the donor.

**Implementation:** Institutional forms and procedures should be revised to accommodate the employee-to-employee sick leave donations and should ensure that donors are advised of the tax consequences. Accounting and payroll systems will need to be adjusted to recognize the tax consequences. System Administration and institutions should work closely with UT System OGC regarding the tax consequences.

**Effective:** September 1, 2015

Tamra J. English, Don Jansen

### **Health Benefits**

#### **HB 437** by Raney, et al. and Campbell

Relating to eligibility to participate in health benefit programs for certain state employees reemployed after military service

HB 437 amends Chapter 1601 of the Texas Insurance Code by eliminating any applicable waiting period for benefits eligible employees returning to work at a UT System institution after a break in service caused by military leave from for employee group insurance benefits that would normally be imposed on employees returning to work after a break in service

**Impact:** Currently, all UT institutions are required to impose a waiting period on all new and return to work benefits eligible employees from the first day of employment until the first day of the calendar month that begins after the 90th day after the first date of employment, or re-employment after a break in service that is not due to FMLA leave. However, institutions do have the option of eliminating the waiting period by paying the employer share of the premium from institutional funds other those appropriated under Chapter 1601 for premium sharing. This bill will allow UT institutions to permit employees returning from military to enroll in employee insurance benefits as of the first day of their

return to employment and to use appropriated funds as of that date to pay the employer share of premiums payable for coverage elected by the employees

**Implementation:** The Office of Employee Benefits policies and procedures, as well as policies, procedures and forms at all institutions concerning waiting periods, and if applicable, payment of premium by institutions from non-appropriated funds, will require amendment. Training on the new requirement should be required for institution's benefits office employees

**Effective:** September 1, 2015

Barbara M. Holthaus

### **Retirement**

[HB 2974](#) by Flynn and Huffman

Relating to the systems and programs administered by the Teacher Retirement System of Texas (TRS).

Most of the changes by this Act do not apply to UT System employees. However, the following changes to TRS retirement plans should be noted:

- Government Code Section 821.001(4) provides that TRS may establish annual compensation over any 12 month period rather than requiring a school year.
- Government Code Section 822.001(c) provides that an employee is eligible for TRS membership if he is employed with a "single employer" on a least a half-time basis.
- Government Code Section 822.003(c) provides that a member does not lose membership in TRS just because the member becomes employed on less than a one-half time basis.
- Government Code Section 823.401 is amended by adding a new subsection (f-1) which provides that a TRS member may not purchase more than 5 years of out-of-state service credit for service credit considered nonqualified service credit under Internal Revenue Code Section 415(n)(3).

**Impact:** These changes to TRS retirement plans could affect UT System employees who are members of TRS.

**Implementation:** Primary implementation of these changes will be by TRS

**Effective:** September 1, 2015

Donald O. Jansen

**HB 1937** by Darby and Fraser

Relating to procedures and eligibility for terminating participation in the Teacher Retirement System of Texas (TRS) deferred retirement option plan (DROP).

From 1997 through 2005, the legislature created the DROP for members of TRS, who were eligible to retire but continued employment, to elect to have amounts equal to a percentage of their monthly retirement annuity contributed to a DROP account for up to 5 years with no further increase in service credit for the TRS standard retirement annuity. DROP accounts are distributable at retirement. Members opting in to the plan were required to sign an irrevocable agreement. However, in 1999, 2001 and 2005, the legislature created temporary revocation periods.

The new Act would allow the remaining 100 plus DROP members, who have not retired before 2016 and whose period of participation has not expired, to revoke their elections from September 1, 2015 through December 31, 2015 as if the member had never participated in DROP. A beneficiary of a deceased DROP member may make the revocation election if the member dies on or after September 1, 2015 and had not retired and the beneficiary is eligible for both a DROP payment and a TRS distribution.

**Impact:** If there are any UT System employees who are still DROP members, they may exercise the revocation election.

**Implementation:** TRS is responsible for implementation and must provide a revocation election form. However, many UT System employees contemplating retirement contact UT System or institution HR personnel for help. It would be useful if such personnel were familiar with these DROP revocation election rules if contacted by a DROP employee.

**Effective:** September 1, 2015

Donald O. Jansen

**HB 2168** by Muñoz, Jr. and Lucio

Relating to the payment date for annuities from the Teacher Retirement System of Texas (TRS).

The Act amends Government Code Section 824.003 to change the payment of TRS retirement annuities from the first working day following the month for which the payment accrues to the last working day of the month for which the payment accrues.

**Impact:** For UT System TRS retirees, the payment of the monthly annuity on the last working day of the month would allow such retirees quicker access to benefits which otherwise would be paid several days later for a month which begins with a weekend or holiday.

**Implementation:** TRS would be responsible for implementation.

**Effective:** September 1, 2015

Donald O. Jansen

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## Ethics and Compliance

### [HB 3683](#) by Geren and Zaffirini

Relating to the requirement of electronic filing by the Texas Ethics Commission.

This bill requires all Personal Financial Statements filed with the Texas Ethics Commission to be filed electronically in a format that meets the standards and specifications of the Texas Ethics Commission.

**Impact:** Regents, institution presidents, and the Chancellor all file a yearly Personal Financial Statement with the Texas Ethics Commission. Until passage of this bill, all Financial Statements were filed on paper. This change will alter the method by which these individuals file their yearly statements.

**Implementation:** The Texas Ethics Commission will need to create software or other standards for its filers to use. The Board Office, presidents' offices, and the Chancellor's office will need to educate our filers so that they can correctly file their personal financial statements in 2016.

**Effective:** September 1, 2015

Jason King

### [HB 1295](#) by Capriglione, et al. and Hancock

Relating to the disclosure of research, research sponsors, and interested parties by persons contracting with governmental entities and state agencies.

Section 1 creates a new Section 51.954, Education Code, to require a faculty member or other employee of an IHE who conducted the research to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

Several definitions are included in Section 51.954, e.g., "public communication", "sponsor", "institution of higher education" and "sponsored research". Specifically, "sponsored research" is defined to mean research conducted under a contract with or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research AND "... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research. "Public communication" is defined to mean "oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information. Please note that the language of section 1 is also contained in SB 20.

Section 2 of the bill creates a new section 51.955 of the Education Code, entitled, “Disclosure of Publicly Funded Research.”

A state agency that expends appropriated funds may not do the following:

- Enter into research contracts with institutions of higher education if that contract contains a provision precluding public disclosure of any final data generated or produced in the course of executing the contract, unless the agency reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party; or
- Adopt a rule that is based on research conducted under a contract entered into with an institution of higher education unless the agency has made the results of the research and all data supporting the research publicly available, or reasonably determines that premature disclosure of such data would adversely affect public safety, intellectual property rights of the institution of higher education, publication rights, or valuable confidential information of the institution of higher education or a third party.

The prohibition in item 1 above does not apply to CPRIT.

Institutions of higher education must respond to requests for information under the public information act.

The section then includes language to state that it does not require public disclosure of personal identifying information or any other information the disclosure of which is otherwise prohibited by law.

Section 3 of the bill creates section 2252.908 of the Government Code, which requires recipients of state and local government agency contracts to file a disclosure statement with the contracting agency at the same time the recipient submits the signed contract to the agency.

This bill applies to a contract of a governmental entity or state agency (including higher ed. institutions) that:

- has a value of at least one million dollars, or
- requires an action or vote by the governing body of the state agency before the contract may be signed.

This section expressly does not apply to:

- an institution of higher education’s sponsored research contracts, or
- interagency contracts between institutions of higher education and a state agency, or

- a contract related to health and human services if the value of the contract cannot be determined at the time the contract is executed and any qualified vendor is eligible for the contract.

For contracts that this section does apply to, the state agency may not enter into the contract unless the person with whom the agency is contracting submits a “disclosure of interested parties” to the state agency at the time the person submits the signed contract to the state agency.

The “disclosure of interested parties” is a form that will be created by the Texas Ethics Commission. The form must include:

- A list of each “interested party” for the contract of which the contracting person is aware; and
- The signature of the contracting person, or agent of the contracting person, acknowledging that the disclosure is made under oath under penalty of perjury.

An “interested party” is defined as a person with a controlling interest in a business entity, or who actively participates in facilitating a contract or negotiating the terms of a contract.

Once a state agency receives a disclosure of interested parties, the state agency must submit a copy of the disclosure to the Texas Ethics Commission.

The Ethics Commission is empowered to adopt rules to implement this section.

### **Impact:**

Section 1: Although the statutory disclosure requirement is new, the disclosure of the identity of sponsors of research in publications and professional presentations is the common practice for sponsored research. Faculty will need to be aware of the expanded definition of “public communication” to ensure compliance with the statutory requirement. The statute does in impose a sanction for failure to disclose and does not expressly require institutions to monitor faculty compliance.

Section 2: Section 51.955 has narrow application in that it applies only to contracts for research on behalf a state agency, and the institutions performing the research will benefit from the exceptions to the disclosure requirement designed to protect the IP rights of the institution and the publication rights of the faculty member performing the research.

Section 3: For applicable contracts, System and the institutions will be prohibited from entering into a contract with a value of a million dollars or more unless the appropriate disclosure form has been filed. In addition, any contract requiring a vote of the board of

regents regardless of cost must also have a disclosure form attached. UT System will also be required to submit these forms to the Texas Ethics Commission within 30 days.

**Implementation:**

Section 1: The President, Research Office, or other appropriate office should advise faculty engaged in sponsored research of the new disclosure requirements.

Section 2: The Research Offices at each institution should review their contracting processes to ensure that research agreements with state agencies that expend appropriated funds adequately address disclosure issues in accordance with section 51.955.

Section 3: Procurement Offices should review their procedures and work with UT System OGC to ensure that their purchasing procedures comply with the new requirements of Section 2252.908.

**Effective:** September 1, 2015

Jason King

[\*\*SB 20\*\*](#) by Nelson, et al. and Price, et al.

Relating to state agency contracting.

This summary represents UT System's current analysis of the provisions of SB 20. Discussions with stakeholders are ongoing. As a result, this analysis is subject to change.

Section 2: Adds new Section 403.03057, Government Code, to require the Comptroller (in cooperation with the Governor's budget and policy staff) to conduct a study examining the feasibility and practicability of consolidating state purchasing and procurement into fewer state agencies or one agency. The Comptroller must report the findings of the study to various State officials no later than December 31, 2016. Section 403.03057 expires January 1, 2018.

Section 3: Adds new Section 441.1855, Government Code, requiring a state agency to retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and permitting a state agency to destroy the contract and documents only after the seventh (7<sup>th</sup>) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved. Section 441.180(9) defines "state agency" to include institutions of higher education (IHEs).

Sections 4 and 27: Section 4 adds new Section 572.069, Government Code, to create a "revolving door" prohibition for state officers and employees [ref. Section 572.002, Government Code, for definitions of state agency, state employee and state officer]. A state officer or employee who participated on behalf of a state agency in (1) a procurement, or (2) contract negotiation involving a person, may not accept employment from that

person before the second (2<sup>nd</sup>) anniversary of the date the officer's or employee's service or employment with the state agency ceased.

Section 27 states that new Section 572.069 applies only to state officers and employees who cease state service on or after September 1, 2015.

Neither Section 4 nor Section 27 includes a criminal penalty or other enforcement provision.

Sections 15 and 16: Existing Section 2157.068, Government Code, authorizes DIR to (a) procure "commodity items" for state agencies, and (b) promulgate regulations requiring state agencies to purchase "commodity items" under a DIR contract pursuant to Section 2155.068.

Section 15 adds Sections 2157.068(e-1) and (e-2) requiring state agencies to follow specified competitive procedures when purchasing "commodity items" from the contract list developed by DIR under Section 2157.068, and prohibiting purchases for more than \$1 million under Section 2157.068.

Section 16 adds Section 2157.0685, Government Code, requiring state agencies entering into "commodity item" contracts under Section 2157.068 that require the agency to develop and execute a statement of work (SOW) to initiate the services under that contract to: (1) consult DIR before submission of the SOW to the vendor, (2) post each SOW on the agency's website in compliance with DIR regulations, and (3) prohibit the agency from making payment under the SOW unless DIR first signs the SOW.

#### Section 17 and 18:

Section 17 amends Section 2261.001(a), Government Code, to exclude new Subchapter F, Chapter 2261, from the IHE exemption to the requirements of Chapter 2261. Section 18 adds new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts to Chapter 2261 providing that (notwithstanding Section 2261.001), Subchapter F applies to IHEs acquiring goods/services under Section 51.9335 or 73.115, Education Code. New Subchapter F:

- Requires disclosure of potential conflicts of interest related to contracts and procurement solicitations;
- Prohibits contracts for goods or services if certain agency personnel have a financial interest in the contract; and defines financial interest to include (1) direct or indirect ownership of 1% or more of the vendor (not including a retirement plan, blind trust, insurance coverage ownership interest of less than 1% in a corporate), and (2) a reasonably foreseeable financial benefit;
- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires Internet posting (until the contract expires or is completed) of (a) each contract the agency enters for the purchase of goods/services from a private vendor (including "sole source" contracts), (b) statutory or other authority for exclusive acquisition purchases, and (c) the RFP

related to competitively bid contracts. Contracts with a value of less than \$15,000 may be posted monthly;

- Except with regard to memoranda of understanding, interagency/interlocal contracts or contracts for which there is not a cost, requires agencies to (1) promulgate a rule to establish procedures to identify contracts that require enhanced contract or performance monitoring and submit information on those contracts to its governing body, and (2) report serious issues or risks with respect to monitored contracts to the agency's governing body;
- Requires agencies to develop contract reporting requirements for contracts for the purchase of goods/services with a value exceeding \$1 million;
- Prohibits a state agency from entering into a contract for goods/services with a value of more than \$1 million unless the governing body (or delegate of the governing body) approves/signs the contract;
- In connection with contracts for the purchase of goods/services with a value exceeding \$5 million, requires the contract management office or procurement director to (1) verify in writing that the solicitation process complies with state law and agency policy, and (2) submit to the governing body information on any potential issue that may arise in the solicitation, procurement or contractor selection process;
- Requires each state agency to develop and comply with a purchasing accountability and risk analysis procedure providing, among other things, for (1) assessment of risk of fraud, abuse or waste in the procurement and contracting process, and (2) identification of contracts that require enhanced monitoring; and
- Requires each agency to (1) publish a contract management handbook consistent with the Comptroller's contract management guide, (2) post the handbook on the Internet, and (3) submit the handbook link to the Comptroller for re-posting on the Comptroller's web page.

Sections 22, 23 and 25: Amend Sections 51.9335(d) and 73.115(e) and (f), Education Code, to make those provisions subject to new Section 51.9337, Education Code.

- Section 51.9337 provides that an IHE may not exercise best value procurement authority for goods and services granted by Section 51.9335 or 73.115, unless the IHE's board of regents promulgates rules required by Section 51.9337, including rules adopting:
- A code of ethics for officers and employees related to executing contracts or awarding contracts;
- Policies for internal investigation of suspected fiscal irregularities;
- A compliance program to promote ethical behavior and compliance with applicable laws, rules and policies;
- A contract management handbook covering contracting policies, contract review and risk analysis;
- Contracting delegation guidelines;
- Training for officers and employees authorized to execute contracts or exercise discretion in awarding contracts; and
- Internal audit protocols.

An IHE's chief auditor must annually assess whether the IHE has adopted rules and policies required by Section 51.9337 and report findings to the State Auditor. If the State Auditor determines that the IHE has not adopted rules and policies required by Section 51.9337, the State Auditor must report that failure to the Legislature and to the IHE's board of regents, and work with the IHE to develop a remediation plan. Failure by the IHE to comply within the time specified by the State Auditor will result in a finding that the IHE is in noncompliance. That finding will be reported to the Legislature and the Comptroller.

An IHE that is not in compliance with Section 51.9337 is subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code.

Section 24: Adds new Section 51.954, Education Code, requiring a faculty member or other employee of an IHE who conducted research, to conspicuously disclose the identity of each sponsor of the research in all public communications where the content of the public communication is based on the results of sponsored research.

"Sponsored research" means research conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research, and "... in which payments received or the value of the materials received under the contract or grant or under a combination of more than one such contract or grant, constitutes at least 50% of the cost of conducting research." "Public communication" means "oral or written communication intended for public consumption or distribution, including: (a) testimony in a public administrative, legislative, regulatory, or judicial proceeding, (b) printed matters including a magazine, journal, newsletter, newspaper, pamphlet, or report; or (c) posting of information on a website or similar internet host for information."

Section 28: Mandates implementation of applicable the provisions of this bill as soon as practical after September 1, 2015.

Section 30: Applicable provisions of this bill apply only to contracts entered into on or after September 1, 2015.

**Impact:**

Section 2: The Comptroller's Centralized State Procurement Study may ultimately produce regulations or statutes that impact the purchasing and contracting functions of UT institutions. UT institutions should monitor the progress and results of this study and any related rulemaking or legislative processes.

Section 3: New Section 441.1855 Retention of Contract and Related Documents by State Agencies, Government Code, requires UT institutions to retain each contract entered into by the institution and all contract solicitation documents related to the contract; and permits UT institutions to destroy the contract and solicitation documents only after the seventh (7<sup>th</sup>) anniversary of the date (1) the contract is completed or expires, or (2) certain issues involving the contract or documents are resolved.



Section 4 and 27: Section 572.069, Government Code, impacts former officers and employees of UT institutions. Section 572.069 appears to restrict the ability of former employees to work for persons the former employee participated in a procurement with or negotiated a contract with during the former employee's tenure with UT and lasts for two years from the end of State service. Sections 4 and 27 do not include criminal penalties or other specific enforcement provisions. UT employees continue to be subject to existing UT ethics policies and procedures.

Sections 15 and 16: DIR determined that IHEs making purchases of "commodity items" under DIR "commodity item" group purchasing contracts authorized by Section 2157.068, Government Code, are not subject to the new statutory requirements (additional competitive processes, \$1 million monetary cap, or DIR SOW review) placed on other state agencies utilizing those group purchasing contracts. DIR plans to promulgate regulations implementing DIR's interpretation of amended Section 2157.068 and new Section 2157.0685. UT institutions may defer to DIR rules which appear to be consistent with prior DIR interpretations of related statutes.

Note: All purchases from group purchasing organizations (including programs administered by DIR) will continue to be subject to current and future guidance issued by the Group Purchasing Organization Purchasing Task Force and UT System.

Sections 17 and 18: Subject to other applicable law, this bill amends Chapter 2261, Government Code, to make UT institutions (regardless of source of funds) subject to new Subchapter F Ethics, Reporting, and Approval Requirements for Certain Contracts.

Sections 22, 23 and 25: Sections 51.9335(d) and 73.115(e) and (f), Education Code, are subject to new Section 51.9337, Education Code.

New Section 51.9337, Education Code, conditions the best value procurement authority for goods/services of all UT institutions on adoption by the Board of Regents of certain rules and policies required by Section 51.9337. If the Board of Regents fails to adopt the specified rules and policies, UT institutions will be subject to the laws governing the acquisition of goods and services by other state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, which are generally more burdensome.

Section 24: Section 51.954, Education Code, may impact UT institutions in the three following ways: First, Section 51.954 codifies the current practice of including the sponsor's name on federal and state supported grants. Second, UT institutions will be required to monitor faculty member compliance with Section 51.954. Note that the faculty member (not the UT institution) publishes or discloses his/her research findings. Third, UT institutions will be required to perform calculations to determine if payments received or the value of materials received under one grant or a under a combination of grants and contracts constitutes at least 50% of the cost of conducting the research. UT institutions will need to adopt policies and procedures to implement these new requirements. (BethLynn Maxwell)

Section 28: Requires UT institutions to implement the applicable provisions of this bill as soon as practical after September 1, 2015.

Section 30: Applicable provisions of this bill will apply to UT institution contracts entered into after September 1, 2015.

**Implementation:**

This bill requires UT institutions to implement applicable provisions as soon as practical after September 1, 2015. Implementation will require discussions among the UT System Office of Business Affairs, Office of Governmental Relations, Office of General Counsel, administrative offices at UT institutions, the Board of Regents, additional IHEs, and others. These discussions are ongoing. Implementation will likely require changes to existing policies and procedures, as well as implementation of new policies and procedures.

**Effective:** September 1, 2015

Dana Hollingsworth

[SB 24](#) by Zaffirini and Zerwas

Relating to training for members of the governing board of a public institution of higher education.

This bill requires that a Regent must attend an intensive short orientation course and any available training course sponsored or coordinated by the office of the governor with a curriculum designed for training newly appointed state officers, board members, or high-level executive officials. The bill requires that institutions of higher education adopt rules to that effect.

Any new Regent whose first year of service begins on or after January 1, 2016 is prohibited from voting on budgetary or personnel matters until the Regent completes the intensive short training course.

The bill amends the current training requirements to specifically include ethics, limitation on the authority of Boards of Regents, FERPA and privacy issues.

The bill requires the Texas Higher Education Coordinating Board (THECB) to create an intensive short course for appointed members of governing boards. The course must be available online, as a written document, or in a one-on-one setting.

**Impact:** This bill provides additional training requirements for our Regents. The bill's enforcement mechanism will prevent regents who have not taken the required training from voting on budgetary or personnel matters. Currently Regents undergo an onboarding process that includes training in a variety of areas. The THECB online training does not appear to be an onerous requirement.

**Implementation:** The Board Office should work with the Office of General Counsel to amend the Regents' Rules as necessary to comply with this bill. In addition, the Board

Office should work with the Office of General Counsel to create new training materials in light of these new requirements. Finally, the Office of Governmental Relations may wish to contact the THECB to assist in their creation of training materials.

**Effective:** January 1, 2016

Jason King

### **Board of Regents**

[HB 3683](#) by Geren and Zaffirini

Relating to the requirement of electronic filing by the Texas Ethics Commission.

This bill requires all Personal Financial Statements filed with the Texas Ethics Commission to be filed electronically in a format that meets the standards and specifications of the Texas Ethics Commission.

**Impact:** Regents, institution presidents, and the Chancellor all file a yearly Personal Financial Statement with the Texas Ethics Commission. Until passage of this bill, all Financial Statements were filed on paper. This change will alter the method by which these individuals file their yearly statements.

**Implementation:** The Texas Ethics Commission will need to create software or other standards for its filers to use. The Board Office, presidents' offices, and the Chancellor's office will need to educate our filers so that they can correctly file their personal financial statements in 2016.

**Effective:** September 1, 2015

Jason King

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**Impact:** This bill provides additional training requirements for our Regents. The bill's enforcement mechanism will prevent regents who have not taken the required training from voting on budgetary or personnel matters. Currently Regents undergo an onboarding process that includes training in a variety of areas. The THECB online training does not appear to be an onerous requirement.

**Implementation:** The Board Office should work with the Office of General Counsel to amend the Regents' Rules as necessary to comply with this bill. In addition, the Board Office should work with the Office of General Counsel to create new training materials in light of these new requirements. Finally, the Office of Governmental Relations may wish to contact the THECB to assist in their creation of training materials.

**Effective:** January 1, 2016

Jason King

[SB 27](#) by Zaffirini and Howard

Relating to the online broadcast of open meetings of institutions of higher education.

SB 27 amends the Government Code by requiring the governing board of an institution of higher education to broadcast telephone conference call meetings over an Internet site, provide access to the broadcast through that site, and keep such broadcasts archived on that board's website.

**Impact:** There will be no impact to UT System as we already provide access to broadcasted telephone conference meetings through the UT System Board of Regents' website and keep those broadcasts archived for public access through that website.

**Implementation:** Because the UT System Board of Regents' website already broadcasts telephone conference meetings and contains archives of such meetings, the only implementation required is to contact the Board Office to inform them this is now a requirement so that their website is properly monitored to ensure it is running properly and broadcasts and archives are always available for public access.

**Effective:** September 1, 2015

Ana Vieira Ayala

[SB 42](#) by Zaffirini and Sheffield

Relating to the selection process for student members of the board of regents of a state university or state university system.

This bill amends sections 51.355 and 51.356 of the Texas Education Code regarding the appointment of a student regent. Under the new provisions, the Governor may not appoint a student regent who did not submit an application to be a student regent to the student government of a general academic teaching institution or medical and dental unit in the system.

**Impact:** This bill will have minimal impact on UT System. The bill primarily affects the governor's office by limiting their choice for student regent to only individuals who have submitted an application as specified by the statute.

**Implementation:** The Board Office should be aware of these new provisions in case of any inquiry by either the Governor's Office or the press.

**Effective:** May 23, 2015

Jason King

### University of South Texas

[HB 1596](#) by Guerra et al. and Hinojosa

Relating to the Hidalgo County Healthcare District; decreasing the possible maximum rate of a tax.

HB 1596 amends the Special District Local Laws Code to change authorization for the Hidalgo County Hospital District to Healthcare District. The healthcare district, if created, operates and is financed as a hospital district. This amendment provides for an election ordered by the Hidalgo County Court if petitioned by at least 50 registered voters who are county residents. If the creation of the healthcare district is approved, the county judge, each county commissioner and the governing bodies of the four most populous municipalities each appoint one director. Budget approval and budget amendments are subject to both the health district board and the Hidalgo County Commissioners Court. Unless a higher rate is approved at an election as provided by Section 1122.252(a), the tax rate is limited to 25 cents per \$100 valuation. As soon as practical after creation of the healthcare district, the Hidalgo County Commissioners Court shall transfer all operating and reserve funds budgeted by the County for indigent health care assistance. Healthcare District funds shall be used for district purposes, including supporting the School of Medicine at UTRGV, and training physicians, nurses and other health care professionals.

**Impact:** This bill provides a significant funding source for supporting the UTRGV medical school, training physicians and other health care professionals, and improving health care services for local residents.

**Implementation:** U.T. System and UTRGV will want to begin working on implementation plans with local officials.

**Effective:** June 10, 2015

Allene Evans

[SB 317](#) by Hinojosa, et al. and Muñoz, Jr.

Relating to The University of Texas Rio Grande Valley.

This bill amends Chapter 79 of the Texas Education Code by officially adopting the name of “The University of Texas Rio Grande Valley” and deleting the term “The University to be established in South Texas.”

**Impact:** This bill impacts The University of Texas Rio Grande Valley in that the name formerly adopted by the Board of Regents will be officially adopted by statute.

**Implementation:** N/A

**Effective:** May 23, 2015

Melissa V. Garcia

### **Privacy**

[HB 1779](#) by Murr and Uresti

Relating to the disclosure in certain judicial proceedings of confidential communications between a physician and a patient and confidential patient records.

HB 1799 amends Section 159.003(a) of the Occupations Code to clarify that a physician may release confidential patient information in judicial proceedings in which the patient is a party when the disclosure is requested by subpoena. When the patient is not a party, release is permitted in compliance with a court order only and not by subpoena. These changes align the confidentiality rules for physicians with those governing hospitals.

**Impact:** To the extent that UT health institutions’ physicians are subjected to subpoena or court order to disclose patient information, this amendment clarifies these confidentiality exceptions.

**Implementation:** Administrative offices should update procedures for releasing information in court proceedings.

**Effective:** September 1, 2015

Allene Evans

[HB 2641](#) by Zerwas, et al. and Schwertner

Relating to the exchange of health information in this state; creating a criminal offense.

This bill is intended to encourage health care providers and state health authorities to utilize health information exchanges wherever possible. A “health information exchange” (HIE) is an organization that provides secure electronic health information exchange services that allows health care providers to send and receive patient health information . The expected benefits of HIE uses is increased connectivity and enabling patient-centric information flow to improve the quality and efficiency of health care. The use of HIEs is a key piece of the Medicare and Medicaid Electronic Health Care Record (EHR) Incentive Programs which provides incentive payments to eligible professionals, eligible hospitals, and critical access hospitals (CAHs) to reduce health care costs. The bill places the responsibility on the Texas Health & Human Services Commission to take the lead in developing HIEs for use in reports and other data exchanges involving Texas health and human services programs and limits civil liability for health care providers that utilize HIEs. Specifically, the bill:

- Clarifies that a physician, hospital or other health care provider who uses an available HIE for the purpose of obtaining, using or disclosing patient information is not liable for the HIE or another individuals use of that information in violation of applicable law unless the use was done with malice or gross negligence.
- Amends Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute.
- Authorizes HHSC to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective.
- Authorizes HHSC to continue to reimburse providers under Medicaid for the provision of home telemonitoring services until September 1, 2015.
- Amends Section 81.044(a), Texas Health and Safety Code (TH&SC) to require HHSC to commissioner to prescribe the form and method of required medical reporting to include the use of HIEs created by HHSC.
- Permits health care facilities, labs and health care practitioners to provide reports on cancer diagnoses to the Texas Cancer Registry under Health & Safety Code reports on cancer diagnoses to the Texas Cancer Registry under TH&SC; providers who provide immunization data to the Immunization Registry under Chapter 161 of TH&SC; and reports on patients diagnosed with communicable diseases to the Department of State Health Services under TH&SC Chapter 81 to make such reports through an HIE.
- creates a new Subchapter D to Chapter 182 of the TH&SC, authorizing hospitals, physicians and other health care providers who are required to provide confidential reports on patients diagnosed with communicable diseases to the Department of State Health Services under TH&SC Chapter 81, reports on cancer diagnoses to the Texas

Cancer Registry under TH&SC Chapter 82, and reports on immunization to the Texas Immunization Registry pursuant to Chapter 161 of TH&SC to utilize an HIE to make such reports. HIEs are authorized to access and transmit such reports in compliance with applicable state and federal law.

- Criminalizes the use of protected health information in the possession of an HIE in a manner that violates new Subchapter D of Chapter 182 TH&SC.

**Impact:** Assuming the bill results in the creation of HIEs by HHSC for use in reporting and other communications between System health care providers and Texas state health programs, such as the Medicaid program, and institutions begin or continue to conduct more of their reporting and Medicaid billing online, UT System health care providers, such as hospitals and physician groups may see a reduction in overall medical care costs and increasing efficiencies as the result of increased use of HIEs in Texas. UT Institutions that provide or employ health care providers who provide home telemonitoring services will be able to continue to receive Medicaid reimbursement for those services through August 31, 2019

**Implementation:** UT institutions that provide health care and employ health care providers that bill for services through Medicare should track, and may wish to participate in the rulemaking process, for electronic reporting and reimbursement authorized by the bill and possible incentives available for use of HIE usage.

Institutions that currently participate in, or utilize HIEs or are exploring potential future participation in HIEs, should review the bill and take its requirements into account in their planning for use and participation in HIEs.

Health institutions should determine which care providers within the institution are required to provide reports to the agencies that will begin to accept reports through HIEs under the bill. They may also wish to explore if reporting through HIEs would be advantageous. If so, they should begin developing HIE reporting processes for these providers.

Health institutions that currently bill Medicare for home telemonitoring services should reexamine any current plans to curtail such services given the extension for Medicare billing for these services through fall 2019.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 2171](#) by Sheffield, et al. and Zaffirini

Relating to information maintained in the immunization registry with the consent of an individual after the individual becomes an adult.

The bill amends Section 161.007 of the Health and Safety Code which governs the immunization registry maintained by the Department of State Health Services (DSHS). It



changes the process and timing by which an individual must provide consent to DSHS that is required to allow the retention of the individual's information in the immunization registry after an individual becomes an adult. It requires DSHS to make two attempts to contact individuals after they reach the age of 18 about their right to change their consent regarding the retention of their immunization information in the immunization registration through outreach efforts through the individual's health care provider or institution of higher education.

**Impact:** DSHS may call upon UT institutions to provide last known addresses for students in the registry. A federal confidentiality law, the Family Educational Records Privacy Act (FERPA) prohibits institutions from releasing student and former student addresses if the student has exercised their right to opt out of the release of their personal information to third parties. Institutions will need to be prepared to explain this to DSHS if they are requested to provide addresses for students who have opted out.

**Implementation:** Campus offices that maintain students' and former students' mailing addresses and other personal information about students will need to be informed of the possibility of such requests and prepare a strategy for responding to them in a way that complies with FERPA and the institution's FERPA policies.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 896](#) by Hernandez and Huffman

Relating to creating a criminal offense regarding the breach of computer security.

This bill criminalizes intentionally accessing information on a computer or data base owned by a System institution for an unauthorized user. The Office of Police will need to ensure that police officers are trained about this new offense. These actions are already violations of System security policies.

**Impact:** These actions are already violations of System security policies. Violators can be charged, if necessary, under other offenses.

**Implementation:** The Office of Police and campus police offices will need to ensure that police officers are trained about this new offense.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 764](#) by King, et al. and Rodríguez

Relating to the use, collection, and security of health care data collected by the Department of State Health Services

This bill places limitations on the Texas Health Care Information Council (Council), which is operated by the Texas Department of State Health Services, and is charged with developing a statewide health care data collection system to collect health care charges, utilization, provider quality data, and outcome data to facilitate the promotion and accessibility of effective good quality health care.

The bill requires health care providers at hospitals and health care facilities that report data to the Council to provide notices to all patients whose data is reported about the data reporting process. The Council will create and post the required notices on the Council's website. Administrators at System health science institutions that operate hospitals and facilities that provide health care will need to develop processes for downloading the promulgated notices and ensuring that the notice is provided to all patients.

The bill also requires the Department of State Health Services (DSHS) to create a form for use by providers who collect data from patients to provide notice to patients whose data is subject to collection by the Council and provides information about which agency or entity receives the data as contact person at the agency or entity for patients with questions about the data collection.

**Impact:** Providers at System health science institutions that operate hospitals and facilities who provide health care services that are required to report data to the Council will be required to provide the patient notices required by the bill and to answer patients' questions generated by the notice.

**Implementation:** Administrators at System health science institutions that operate hospitals and facilities which provide health care will need to develop processes for downloading the promulgated notices and ensuring that the notice is provided to all patients. Staff training may be required.

**Effective:** September 1, 2015

Barbara M. Holthaus

[HB 4046](#) by Alvarado, et al. and Ellis

Relating to the confidentiality of student records.

The bill amends section 552.114 of the Texas Government Code to make all information submitted by or on behalf of an applicant, including a transfer student, to an institution of higher education that receives any state funds confidential. It also authorizes institutions to withhold applicant information that is subject to a request under the Texas Public Information Act (TPIA) without requesting an opinion from the Office of the Attorney General under the TPIA. However, the parents of an applicant may still access applicant information that was submitted by the applicant to the institution upon request.

**Impact:** All student education records maintained by System institutions, or by System Administration or a vendor acting on behalf of an institution, are subject to a federal privacy law, the Family Educational Records Privacy Act (FERPA). All information

subject to FERPA is exempt from disclosure under the Texas Public Information Act (TPIA). However, information submitted by an *applicant* does not become subject to FERPA unless and until the applicant enrolls at the institution. Currently, applicant information submitted by individuals not yet, or never, admitted to the institution is subject to release under the TPIA. Applicant information is often highly sensitive and personal. Currently, before an institution can withhold applicant information that is the subject of a TPIA request, the issue must be briefed to the Office of the Attorney General for a ruling permitting the institution to withhold the applicant information. Under the bill, institutions can redact and withhold applicant information that is subject to a TPIA request without briefing the issue, which is the same way the institutions now handle TPIA requests for education records subject to FERPA.

**Implementation:** System Administration and System institutions will need to revise their policies and procedures for responding to TPIA requests for applicant's records. Some training may be required to ensure that the Public Information Coordinators and the offices that maintain applicant data (Registrar or Student Affairs) are handling requests consistently, particularly since parents will be able to access applicant information, while FERPA prohibits the release of any education records to even a minor child who is enrolled in a post-secondary educational program. Additionally, applicant information may need to be addressed in the confidentiality provisions of some contracts on a go-forward basis. OGC has already amended the Joint Admissions Medical Programs (JAMP) contracts with the medical schools and other institutions affected by this change.

**Effective:** September 1, 2015

Barbara M. Holthaus

**SB 24** by Zaffirini and Zerwas

Relating to training for members of the governing board of a public institution of higher education.

This bill requires that a Regent must attend an intensive short orientation course and any available training course sponsored or coordinated by the office of the governor with a curriculum designed for training newly appointed state officers, board members, or high-level executive officials. The bill requires that institutions of higher education adopt rules to that effect.

Any new Regent whose first year of service begins on or after January 1, 2016 is prohibited from voting on budgetary or personnel matters until the Regent completes the intensive short training course.

The bill amends the current training requirements to specifically include ethics, limitation on the authority of Boards of Regents, FERPA and privacy issues.

The bill requires the Texas Higher Education Coordinating Board (THECB) to create an intensive short course for appointed members of governing boards. The course must be available online, as a written document, or in a one-on-one setting.

**Impact:** This bill provides additional training requirements for our Regents. The bill's enforcement mechanism will prevent regents who have not taken the required training from voting on budgetary or personnel matters. Currently Regents undergo an onboarding process that includes training in a variety of areas. The THECB online training does not appear to be an onerous requirement.

**Implementation:** The Board Office should work with the Office of General Counsel to amend the Regents' Rules as necessary to comply with this bill. In addition, the Board Office should work with the Office of General Counsel to create new training materials in light of these new requirements. Finally, the Office of Governmental Relations may wish to contact the THECB to assist in their creation of training materials.

**Effective:** January 1, 2016

Jason King

[SB 1844](#) by Zaffirini and Walle

Relating to the establishment and functions of the Interagency Data Transparency Commission.

SB 1844 adds a new Chapter 2060 to the Government Code that creates an Interagency Data Transparency Commission. Such a Commission is to study and review (a) current state agency public data structure, classification, sharing, and reporting protocols and (b) the possibility of collecting and posting state agency data online in an open source format easily accessible by the public.

In conducting such a study, the Commission is to consider methods to:

- structure, classify, and share data among state agencies;
- more efficiently gather and process data;
- collect and post data online in an open source format that is machine-readable, exportable, and easily accessible by the public;
- standardize data across state agencies;
- incorporate reporting practices by state agencies into the open data systems of the state;
- improve coordination of interagency data;
- improve sharing of data between state agencies;
- reduce the costs of collecting data;
- reduce duplicative data and information;
- increase accountability and ensure state agencies share and report the data collected by the state agencies;
- improve information management and analysis to:
  - increase information security;
  - uncover fraud and waste;
  - reduce costs incurred by state agencies;
  - improve operations performed by state agencies; and
  - verify compliance with applicable laws; and

- determine other data and transparency issues.

The new Chapter 2060 requires the Commission to provide a final report on data reporting practices by state agencies to the Governor, Lieutenant Governor, and Speaker of the House no later than September 1, 2016. Such a report must include the Commission's recommendations for efficient and effective solutions concerning the above areas addressed in its study, as well as solutions to other data and transparency issues identified by the Commission. The report must also include the Commission's proposals for legislation necessary to implement such recommendations, as well as administrative recommendations.

Furthermore, the Commission is required to provide any additional reports requested by the Governor, Lieutenant Governor, or Speaker of the House.

**Impact:** UT System and the UT institutions will need to work with the new Interagency Data Transparency Commission as necessary for the Commission to perform the studies and reviews and produce the reports and recommendations required by the new Chapter 2060. Furthermore, UT System and the UT institutions may be affected by any changes in state laws, regulations, policies, etc. concerning state agency public data structure, classification, sharing, reporting protocols and online posting of state agency data resulting from the Commission's operations.

**Implementation:** The business, legal, information technology, information security, public affairs, and public information offices at UT System and the UT institutions will need to cooperate and work with the new Interagency Data Transparency Commission, as well as remain cognizant of the studies, reviews, reports, and recommendations of that Commission.

**Effective:** September 1, 2015

Scott Patterson

**SB 195** by Schwertner and Crownover

Relating to prescriptions for certain controlled substances, access to information about those prescriptions, and the duties of prescribers and other entities registered with the Federal Drug Enforcement Administration; authorizing fees.

SB 195 amends the Government Code, to restructure the prescribing, filling, and administration of prescription drugs under the oversight of the Texas State Board of Pharmacy (TSBP). The bill moves oversight of the Texas Prescription Program from the Department of Public Safety (DPS) to the TSBP. Transfer of oversight is required by September 1, 2016.

The bill repeals the requirement that a person register with DPS to manufacture, distribute, analyze, or dispense a controlled substance or conduct research with a controlled substance under the Texas Controlled Substances Act. The bill further amends the Health and Safety

Code, including provisions amended by SB 219, Acts of the 84th Legislature, Regular Session, 2015, to require a person to be registered with or exempt from registration with the Federal Drug Enforcement Administration under the federal Controlled Substances Act to manufacture, distribute, prescribe, possess, analyze, dispense, or conduct research with a controlled substance under the Texas Controlled Substances Act. The bill repeals a provision requiring the use of an order form to distribute or order a Schedule I or II substance to or from another registrant.

SB 195 directs the TSBP to adopt all rules necessary for the administration of the Controlled Substances Act, by March 1, 2016; however the bill specifies that rules previously in effect remain in effect until amended or replaced.

The bill allows access to specified information regarding prescriptions to an investigator for the Texas Optometry Board, an authorized employee of the Texas State Board of Pharmacy, and includes a medical examiner conducting an investigation and one or more states or an association of states with which the Texas State Board of Pharmacy has an interoperability agreement among the persons and organizations authorized to have access to the information regarding prescriptions of certain controlled substances. A provision authorizing certain law enforcement or prosecutorial officials, pharmacists, and health care practitioners to access the information regarding prescriptions of certain controlled substances remove the condition that proper need has been shown from the bill. Access of information is conditioned on certain pharmacists and health care professionals having the authority to access such information under the federal Health Insurance Portability and Accountability Act of 1996 and rules adopted under that act. The bill authorizes a medical examiner conducting an investigation to access the information through a health information exchange, subject to proper security measures. DPS is required to have unrestricted access at all times regarding prescriptions of certain controlled substances.

The TSBP is entitled under the bill to enter into interoperability agreements with other states or associations of states to access prescription information. The bill provides for the TSBP to implement fees to cover the costs of the programmatic changes.

**Impact:** The TSBP will assume oversight of the prescription of controlled substances by health care providers at UT System institutions. New rules and structures will be adopted by the TSBP to manage the oversight of prescriptions in Texas which will impact all controlled substances prescribed within the state of Texas. Additional fees will be implemented by the TSBP for the costs of administering the prescription program.

**Implementation:** Currently, the change in oversight of prescription drugs does not require implementation by UT System institutions; however all health care providers should be aware of ongoing restructuring and upcoming adoption of new rules regarding the processes for the manufacture, distribution, analysis, and dispensing of prescription drugs in the state of Texas. UT System institutions should be prepared for the use of additional fees by the TSBP to cover the cost of administering the oversight of prescription drugs in the state of Texas.

**Effective:** September 1, 2016

**SB 203** by Nelson and Raymond, et al.

Relating to the continuation and functions of the Texas Health Services Authority as a quasi-governmental entity and the electronic exchange of health care information

The Texas Health Services Authority (“THSA”) was created by statute in 2007 and was legally structured as a nonprofit corporation to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges (“HIEs”) among public and private organizations across the state. Under Texas law, THSA is a public-private partnership that contracts with, but is not a part of, Health & Human Services Commission (HHSC) and is subject to the Sunset Act. In 2011, the THSA’s statutory authority was expanded to require it to develop privacy and security standards for the electronic sharing of protected health information and to develop a process for certifying health care provider’s compliance with HIPAA. These privacy and security standards help to gain the confidence of patients whose records are electronically transferred.

THSA is funded through a contract with HHSC through federal grants that are no longer available.

This bill adopts the recommendations of the Sunset Commission that THSA transition from a statutory non-profit corporation to an independent non-profit corporation between now and September of 2021.

Section One terminates the current requirement that a representative of the THSA serve as a member of the Electronic Health Information Exchange System Advisory Committee, a group made up of various types of providers, organizations, and state agencies whose purpose is to inform the HHSC about topics related to electronic health information as of September 1, 2021. In its place, a representative of a private non-profit corporation with relevant knowledge and experience in establishing statewide information exchange capabilities will serve on the Committee.

Section Two terminates the current requirement that HHSC coordinate with THSA on certain audits of health care providers’ compliance with HIPAA privacy requirements for health record as of September 1, 2021.

Section Three terminates the current requirement that HHSC and the Texas Department of Insurance consult with THSA on obtaining funding to support the development and oversight of health information exchanges as of September 1, 2021.

Sections Four, Five and Six provide that various provisions of the statute that authorizes THSA shall expire on September 1, 2021.

Section Seven provides that the two *ex officio* members that the governor must appoint to the THSA’s board of directors may include representatives of any health and human



services agency, rather than representatives of the Department of State Health Services, as is currently required

Sections Eight through Fourteen abolishes various powers and authorities currently granted to the THSA as of September 12, 2021.

Section 15 provides that privacy and security standards for sharing protected health information electronically that THSA was required to recommend to HHSC remain in effect unless and until HHSC amends them. It also provides that the private non-profit corporation designated by HHSC (which will replace the current THSA) will assist HHSC in establishing statewide standards for the sharing of protected health information through health information exchanges (HIEs) and will publish the standards on the private non-profit corporation's website.

**Impact:** This bill should not directly impact UT System. It may slow the development of Health Information Exchanges in Texas, which could indirectly impact System institutions that provide health care services and were relying on the efforts of the THAC to promote the creation of HIEs that would improve efficiency and efficiency of sharing and receiving health care information with other health care providers, insurers and other health care payors, and other entities. However, THSA can continue its mission to support the adoption and secure sharing of health-related information among providers through integrated health information exchanges among health care providers and other organizations across the state without specific statutory authority as a private non-profit. Therefore, assuming THSA's transition to a private non-profit is successful, the bill may not impact UT System institutions in this regard at all. The bill does provide that the specific functions currently performed by THSA that have the potential to impact System institutions that provide health care services; namely, the adoption and amendment of privacy and security standards for sharing protected health information electronically, will continue to be performed by HHSC. If THSA does not succeed as a private non-profit corporation, HHSC can other establish its own certification process or designate another entity to do the certification.

**Implementation:** System institutions that provide health care services which involve the exchange of electronic health data should track the development of rules adopted by HHSC and THSA and any successor non-profit with regard to the adoption and amendment of privacy and security standards for sharing protected health information electronically. UT institutions should be aware of the provisions regarding the date upon which THSA loses authority to act, which take effect September 1, 2021

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 1877](#) by Zaffirini and Galindo.

Relating to the development and maintenance by each state agency of a data use agreement for the state agency's employees and to training related to that agreement.



This bill amends the Government Code to require each state agency, including institutions of post-secondary education, to develop a data use agreement that meets the agency's particular needs and is consistent with Department of Information Resources rules relating to information security standards for state agencies. The agency or institution must update the data use agreement at least biennially but may also do so as necessary to accommodate best practices in data management. The data use agreement, and each update to that agreement, must be distributed to each employee and signed by the employee. It also requires each agency and institution, to the extent possible, to provide agency employees with cybersecurity awareness training to coincide with the distribution of the data use agreement and each biennial update to that agreement.

**Impact:** The requirement for the data use agreement will have little impact on System, as it has already adopted a System-wide policy, UTS 165. UTS 165 contains a data use agreement template (the System “Acceptable Use Policy” or “AUP”) and requires each institution to adopt and distribute the agreement and have each employee sign and acknowledge the agreement before they can access System information resources or data. The codification of this requirement as law will enable System information security officers and privacy officers to reinforce the importance of complying with these requirements. System and its institutions also currently provide cybersecurity training to all employees but it is not necessarily coordinated with the requirement to have each employee acknowledge the institution’s AUP .

**Implementation:** System-wide Information Security Compliance and the Office of General Counsel will jointly review UTS 165 and the System’s Acceptable Use Policy template, and send information about any required updates and reminders to each institutions’ Information Security Officers and chief business officers along with a reminder about the need to review their institutional policies to ensure that they comport with the time lines provided in the new law for having the AUP signed and for providing cybersecurity training. The new requirements can also be reinforced by Information Security and the System Privacy Coordinator at the upcoming semi-annual UT InfoSec conference.

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 1878](#) by Zaffirini and Elkins

Relating to study on the feasibility of implementing more secure access requirements for certain electronically stored information held by the state.

This bill requires the Texas Department of Information Resources (DIR) to conduct a study on the feasibility of using a single portal for accessing electronic data maintained by state agencies, including UT System through statewide adoption of Identity and Access Management Systems (IAMS) and two-step authentication. It requires DIR to seek input from agencies with unique needs. Specifically, the study is to examine the relative costs and benefits of various forms of identification and access management, including

multifactor authentication, and develop a strategy by which DIR may most effectively negotiate for bulk purchase across agencies at the lowest cost to the state. The report must be filed by November 30, 2016.

**Impact:** Given the scope and variety of the missions of its fifteen institutions, System has unique information technology and security needs, as well as the numerous access portals each institution maintains for sharing and receiving different kinds of electronic data (student applications, health care records, the self-funded health insurance plan, donor contributions, Medicaid, Medicare and other health care provider billing) that would not be served by a “one size fits all” approach. System already has arrangements in place with entities and vendors that are adept at meeting the unique needs of higher education institutions in for IAMS. System information security and information technology officers should be actively involved in the study and facilitate a way for all affected stakeholders within the institutions to monitor and provide proposals arising from the study. Otherwise, the results are likely to have a negative impact on System’s and its institutions’ abilities to address the specific issues that affect their constituents and stakeholders.

**Implementation:** System information security and information technology experts should be proactively and directly involved in this study. Currently, there is a very informal, non-structured group (ITCHE) of representatives of information technology officers from System, Texas A&M, Tech and other post-secondary educational institutions. ITCH provides input to DIR in information technology issues on rulemaking that affects public institutions of higher education on *ad hoc* basis. There is no representative System information security program on that group, as the group speaks on behalf of all if the involved institutions, not just System. Even if a representative of ITCH participates, System executive officers should also appoint individuals who represent specific information technology *and* information security interests at System and its institutions to ensure that System’s specific interests in this study are taken into account.

**Effective:** September 1, 2015

Barbara M. Holthaus

[SB 1714](#) by Zaffirini and Howard

Relating to the release of student academic information by a public institution of higher education for certain purposes and the manner in which the information is used.

Currently, Texas Education Code Section 61.833 provides a process whereby public junior colleges, public state colleges, or public technical institutes (collectively defined as “lower-division institutions”) may automatically award an associate degree to a student who was previously enrolled at the lower-division institution upon the receipt of a copy of the student’s transcript from a public general academic teaching institution at which the student subsequently enrolled, if the transcript indicates the student has subsequently acquired sufficient credits to qualify for an associate degree from the lower-division institution.

Under the current statute, a public general academic teaching institution is required to contact each student who has transferred in from a lower-division college with at least 30 credit hours when that student has subsequently acquired a total of at least 66 credit hours. Then the institution must ask the student to consent to provide the transcript to the lower-division institution for review so that an associate degree can be awarded to the student by the lower-division institution.

The bill adds Section 51.9715 to the Education Code, authorizing UT System's academic teaching institutions to request any individual seeking to transfer in to the institution to provide written consent under which the applicant or student waives his or her right to have her education records maintained confidentially under the Family Educational Records Privacy Act ("FERPA"), either; 1) as part of the application process; or, 2) any time the subsequently-enrolled student requests that a copy of his or her official transcript be released to a third party. The consent will allow the institution to report the student's subsequent academic achievement back to a "reverse enrollment platform" that the National Student Clearinghouse is developing with UT Austin to automate the reporting and degree awarding process.

In addition, the bill amends Section 61.833 to change the type of information that the institutions will provide to a lower-division institution through the National Student Clearinghouse platform or another clearinghouse platform, after the student has completed 66 credit hours, with student consent, from a copy of the student's transcript to a report of the student's academic course, grade, and credit information. It allows that report to be made to a student clearinghouse, as well as all previously attended lower-division institutions.

**Impact:** UT System academic teaching institutions may now utilize two ways to attempt to get transfer students to consent to allow the institution to release their current education records to previously attended lower-division institutions. It adds the option of making these reports through the National Student Clearinghouse's reverse enrollment platform or another approved platform. The information will consist of the student's academic course, grade, and credit information, rather than the student's transcript.

**Implementation:** UT academic teaching institutions now have the option to begin requesting consent from transfer applicants at the time of application, and any time the student subsequently makes a third-party transcript request, as permitted by the new law, to allow the institution to report the student's academic institution to the reverse enrollment platform so previously attended lower-division institutions can check to see if the student has subsequently earned sufficient credit to support the award of an associate degree to the student by the lower-division institution. The institutions must also continue to contact each qualifying transfer student once that student earns a total of 66 credits to request consent to the release of the student's academic information to the platform at that time, as well. To comply with the new requirements, academic teaching institutions will have to adopt policies, procedures and forms for requesting FERPA-compliant written consent from students. For students who provide such consent, institutions will need to develop processes making the required releases to the clearinghouses or lower division colleges, as applicable, that the student previously attended. It is also recommended that UT Austin

ensure that the platform being developed in conjunction with the National Student Clearinghouse has a mechanism to ensure that the “lower-division institutions” that will be accessing former students’ information have the proper consent to access the participating students’ education records under FERPA.

**Effective:** June 16, 2015

Barbara M. Holthaus

### **Public Information**

**HB 2633** by Hernandez, et al. and Perry

Relating to the release of a motor vehicle accident report.

HB 2633 amends Section 550.065 of the Transportation Code by changing the avenues to obtain completed motor vehicle accident reports.

Subsection (c)(4) adds the following types of people who can receive a motor vehicle report upon written request and payment of a fee: an agent of the law enforcement agency authorized by contract to obtain the information; any person directly concerned in the accident or having a proper interest therein, including any person involved in the accident; the authorized representative of any person involved in the accident; a driver involved in the accident; an employer, parent, or legal guardian of a driver involved in the accident; the owner of a vehicle or property damaged in the accident; a person who has established financial responsibility for a vehicle involved in the accident in a manner described by Section 601.051, including a policyholder of a motor vehicle liability insurance policy cover the vehicle; and insurance company that issued an insurance policy covering a vehicle involved in the accident; an insurance company that issued a policy covering any person involved in the accident; a person under contract to provide claims or underwriting information to a person described by Subsections (F), (G), or (H) of Section 550.065; a radio or television station that holds an FCC license; a newspaper that is a free newspaper of general circulation or qualified to public legal notices, published at least once a week, and available and of interest to general public in connection with the dissemination of news; or any person who may sue because of death resulting from the accident.

Subsection (c-1) adds that a person who is not listed above may receive a redacted accident report that does not include information described in Subsection (f)(2), which includes but is not limited to the following identifying information such as the name of any person listed in the accident report; driver’s license number; date of birth other than the year; the address, other than zip code, and telephone number of any person listed in an accident report; license plate number of any vehicle listed in an accident report; name of any insurance company listed as a provider of financial responsibility for a vehicle listed in an accident report; the insurance policy number; the date the investigating peace officer was notified of the accident; the date the investigating peace officer arrived at the accident site; badge number or identification number of the investigating officer; date of death as a result of the accident; date of any commercial motor vehicle report; and the place where any person

injured or killed in an accident was taken and the person or entity that provided the transportation.

**Impact:** Motor vehicle accident reports, also known as CR-3 forms, are occasionally included within U.T. System and U.T. institution police reports. Accordingly, HB 2633 would require additional training to open records departments and police departments throughout U.T. System to ensure that the appropriate information is redacted and/or released to the designated individuals.

**Implementation:** UT System and UT institutions will have to be trained on how to respond to requests for CR-3 forms in light of the new additions and revisions to Section 550.065 of the Transportation Code. The Office of General Counsel (OGC) will provide an example of a redacted CR-3 in accordance with the new law. Moreover, if an individual as described above is entitled to full access to a CR-3 then UT institutions must decide on the type of proof needed to obtain the information. OGC suggests that a requesting person provide in writing that they meet the criteria for full access.

**Effective:** June 18, 2015

Audra Gonzalez Welter

[SB 1812](#) by Kolkhorst and Geren

Relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.

Comptroller's Eminent Domain Database

SB 1812 requires the Texas Comptroller of Public Accounts (Comptroller) to create and maintain a free, publicly-accessible online database with information regarding public and private entities authorized by the State to exercise eminent domain. The database must include the following information with respect to each entity:

- the name of the entity;
- the entity's address and public contact information;
- the name and contact information of the person representing the entity;
- the type of entity;
- each provision of law that grants the entity eminent domain authority;
- the focus or scope of the eminent domain authority granted to the entity;
- the location subject to the entity's eminent domain authority;

- the earliest date on which the entity had the authority to exercise the power of eminent domain;
- the entity's taxpayer identification number, if any;
- whether the entity has exercised its eminent domain authority in the preceding calendar year by the filing of a condemnation petition under Chapter 21, Property Code; and
- the entity's internet website address (or contact information if the entity does not have an internet website).

The Comptroller must update the eminent domain database at least annually, and may consult with the person representing each entity to obtain information necessary to maintain the database.

#### Eminent Domain Entities' Reporting Duties

SB 1812 requires each eminent domain entity to submit to the Comptroller initial and subsequent annual reports containing information specified above for the Comptroller's eminent domain database. The entity must submit the reports in a form and the manner prescribed by the Comptroller.

- With respect to the initial report, (1) an entity created before and in existence for at least 180 days on September 1, 2015 must submit its initial report by February 1, 2016, (2) an entity created before and in existence for less than 180 days on September 1, 2015 must submit its initial report not later than the later of the 180th day after the date of the entity's creation or February 1, 2016, and (3) an entity created on or after September 1, 2015 must submit its initial report no later than the 180<sup>th</sup> day after the date of the entity's creation.
- With respect to each annual report following the initial report, each entity must submit each such annual report by February 1 of the applicable year.
- If an entity's reported eminent-domain information changes, the entity has 90 days after the date on which the change occurred to report the change to the Comptroller.

SB 1812 defines "creation date" (or the date an entity is created) as (1) the earliest date the entity existed if the entity had eminent domain authority on that date, or (2) the earliest date the entity was authorized to exercise the power of eminent domain if the entity did not have the authority on the earliest date on which the entity existed.

#### Penalties for Failure to Report

If an eminent domain entity fails to submit a report required by SB 1812, the Comptroller must notify the entity in writing of its failure and that the entity will be subject to a penalty of \$1,000 if it does not report the required information within 30 days after the date the notice is given.

If the entity remains non-compliant after the 30-day cure period, the Comptroller must send a second written notice to the non-compliant entity. The second notice must inform the entity that (1) the entity is liable to the State for the \$1,000 penalty, and (2) if the entity does not report the required information within 30 days after the date the second notice is given, the entity will be subject to an additional penalty of \$1,000 and the entity's non-compliant status will be reflected in the Comptroller's eminent domain database.

If the entity remains non-compliant after the second 30-day cure period, the entity is liable to the State for the additional \$1,000 penalty and the entity's non-compliant status is reflected in the Comptroller's database until the entity reports all required information.

However, it should be noted that an entity's failure to report or non-compliant status does not affect the entity's eminent domain authority or the exercise of that authority.

**Impact:** UT System will have to submit to the Comptroller the required reports containing information concerning the eminent domain authority of the Board of Regents of The University of Texas System. The reports must be submitted in a form and the manner to be prescribed by the Comptroller. UT System must submit the first of such reports by February 1, 2016, and each subsequent annual report by February 1 of the applicable year. UT System must also notify the Comptroller of any changes to its reported information within 90 days after the date on which the change occurred.

**Implementation:** The UT System Executive Director of Real Estate will be responsible for completing the required reports as well as their timely submission to the Comptroller.

**Effective:** June 19, 2015

Ha Kim Dao

[SB 27](#) by Zaffirini and Howard

Relating to the online broadcast of open meetings of institutions of higher education.

SB 27 amends the Government Code by requiring the governing board of an institution of higher education to broadcast telephone conference call meetings over an Internet site, provide access to the broadcast through that site, and keep such broadcasts archived on that board's website.

**Impact:** There will be no impact to UT System as we already provide access to broadcasted telephone conference meetings through the UT System Board of Regents' website and keep those broadcasts archived for public access through that website.

**Implementation:** Because the UT System Board of Regents' website already broadcasts telephone conference meetings and contains archives of such meetings, the only implementation required is to contact the Board Office to inform them this is now a requirement so that their website is properly monitored to ensure it is running properly and broadcasts and archives are always available for public access.

**Effective:** September 1, 2015

Ana Vieira Ayala

**[SB 685](#)** by Seliger and Raney

Relating to the applicability of open meetings and public information laws to the education research center advisory board.

SB 685 amends the Education Code by defining an Education Research Center Advisory Board as a governmental body for purposes of the Open Meetings and Public Information Acts. Additionally, SB 685 authorizes electronic meetings of an Education Research Center Advisory Board to be conducted as authorized by the Open Meetings Act.

**Impact:** This amendment to the Education Code renders Education Research Center Advisory Boards governmental bodies under the Open Meetings and Public Information Acts, which requires them to comply with both.

**Implementation:** Because Education Research Center Advisory Boards are not maintained by our institutions, but only have, as members, the directors of the Education Research Center of both UT Austin and UT Dallas, no implementation is required other than possibly advising our employees, who are members of the board, that the boards are now considered governmental bodies for purposes of the Open Meetings and Public Information Acts.

**Effective:** September 1, 2015

Ana Vieira Ayala

### **Law Enforcement and Security**

**[HB 2629](#)** by Kacal, et al. and Hancock

Relating to unauthorized persons at public or private institutions of higher education in this state, and to trespass, damage, or defacement occurring on the grounds of those institutions; amending provisions subject to a criminal penalty and creating offenses.

This bill amends Subchapter E, Protection of Buildings and Grounds. Specifically, it amends Section 51.204 relating to trespass, damage and defacement of university property by expanding the provision to include not only public institutions but also private or independent institutions of higher education.

This bill also amends Section 51.208 of the Education Code by creating a criminal offense for trespass, damage or defacement of public or private university property. Specifically, a person who violates any provision of this subchapter, or any rule or regulation promulgated under this subchapter, commits a misdemeanor punishable by a fine of not more than \$200.



This bill also amends Section 51.209 (relating to unauthorized person, refusal of entry, ejection and identification) by expanding this provision to include private or independent universities. Of significance, this provision is amended to state that not only may identification be required of any person on public or private university property, but the person is required to provide identification on request.

Finally, this bill repeals Section 51.202(b)—which relates to penalty. However, this provision was moved to Section 51.208, so the law has not changed.

**Impact:** UT System institutions are impacted by the bill and should be aware of the criminal offenses implicated by the trespass, damage or defacing of university property. Although the law has not changed, the provision relating to criminal penalties is different. University police should also be aware of this provision.

**Implementation:** To the extent necessary, UT System police may need to update internal policies or procedures as it relates to the revised criminal penalties related to trespass, damage and defacement of university property.

**Effective:** September 1, 2015

Melissa V. Garcia

[HB 3982](#) by Romero, Jr., et al. and Lucio

Relating to solicitation of a person to buy drinks for consumption by an alcoholic beverage retailer or the retailer's employee; authorizing a civil penalty; amending a provision that is subject to a criminal penalty.

Section 104.01 of the Alcoholic Beverage Code establishes prohibitions on lewd, immoral, and indecent conduct on the premises of a retailer authorized to sell beer. One act so prohibited by Section 104.01 is the solicitation of any person to buy drinks for consumption by a retailer or any of its employees.

HB 3982 modifies Section 104.01 to provide that such a solicitation is legally presumed to occur if an alcoholic beverage is sold or offered for sale for an amount in excess of the retailer's listed, advertised, or customary price. Furthermore, such a presumption may be rebutted only by evidence that is presented under oath.

Furthermore, Section 11.64 of the Alcoholic Beverage Code provides that the Alcoholic Beverage Commission may, instead of suspending a license or permit under that Code, give the holder of that permit or license the opportunity to pay a civil penalty. However, Section 11.64 further provides that the Commission cannot offer such an alternative of a civil penalty if the basis of the suspension is a violation of certain specific provisions of that Code.

HB 3982 modifies Section 11.64 to provide that the prohibition in Section 104.01 forbidding solicitation of a person to buy drinks for consumption by a retailer or its

employees is one of the specific provisions of the Alcoholic Beverage Code for which a civil penalty cannot be offered as an alternative to permit or license suspension.

**Impact:** The changes made by HB 3982 may impact an alcoholic beverage retailer operating on UT property.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the changes to the Alcoholic Beverage Code made by HB 3982.

**Effective:** September 1, 2015

Scott Patterson

[HB 2339](#) by Smith, et al. and Eltife

Relating to consumption of alcoholic beverages in public entertainment facilities.

HB 2339 modifies Section 108.82 of the Alcoholic Beverage Code, which allows concessionaires at certain public entertainment facilities to allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within that facility if the alcoholic beverage:

- is in an open container, as defined by Section 49.031, Penal Code,
- appears to be possessed for present consumption,
- remains within the confines of the facility, excluding a parking lot, and
- was purchased legally at a licensed or permitted premises within the facility.

Prior to HB 2339, Section 108.82 only applied to stadiums that met certain location, construction, and capacity requirements. However, as modified by HB 2339, Section 108.82 now applies to any public entertainment facility:

- that is a stadium, arena, or other permanent structure that is used for sporting events,
- relating to which an advertising, promotional, sponsorship, or concessionaire agreement pre-approved by the Administrator of the Alcoholic Beverage Commission under Section 108.79 of the Alcoholic Beverage Code is in force, and
- for which all alcoholic beverage permits and licenses are held by a single holder.

**Impact:** HB 2339's changes may affect the operations of the public entertainment facilities located at the UT institutions.

**Implementation:** The UT System Office of Academic Affairs should notify all UT institutions that have (or that are considering obtaining) public entertainment facilities of the changes made by HB 2339.

**Effective:** June 10, 2015

Scott Patterson

[HB 2739](#) by Capriglione, et al. and Birdwell

Relating to the use of a concealed handgun license as valid proof of personal identification.

HB 2739 adds Chapter 506 to the *Business & Commerce Code* providing that a person may not deny a holder of a concealed handgun license access to goods, services, or facilities because the holder has or presents a concealed handgun license rather than a driver's license for personal identification.

There are three exceptions which require the presentation of a driver's license: (1) in renting a car or operating a motor vehicle, (2) when responding to a demand by a peace officer for identification, both a driver's license and the handgun license must be presented if a handgun is being carried by a license holder, or (3) when required under federal law to access airport premises or pass through airport security.

**Impact:** UT police and UT employees who may request identification from individuals need to know these rules.

**Implementation:** Inform the pertinent employees and the UT System and UT institution police.

**Effective:** September 1, 2015

Jack C. O'Donnell

[HB 1036](#) by Johnson and Whitmire.

Relating to the reporting requirements for an injury or death caused by a police officer.

HB 1036 amends Chapter 2, Code of Criminal Procedure, by adding Articles 2.139 and 2.1395. Article 2.139 outlines the requirements of the office of the attorney general to create a written and electronic form for the reporting by law enforcement agencies of an officer-involved injury or death. The form should contain only the information identified by the statute.

Art. 2.139 requires the law enforcement agency employing an officer involved in the incident, not later than the 30th day after the date of an officer-involved injury or death, to complete and submit a written or electronic report, using the form created by the attorney general, to the office of the attorney general and, if the agency maintains an Internet

website, post a copy of the report on the agency's website. The report must include all information described by the statute.

Art. 2.139 requires the office of the attorney general to post a copy of the report on the office's Internet website, not later than the fifth day after the date of receipt of a report submitted. In addition, it requires the office of the attorney general, not later than February 1 of each year, to submit a report regarding all officer-involved injuries or deaths that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include the total number of officer-involved injuries or deaths, a summary of the reports submitted to the office under this article, and a copy of each report submitted to the office under this article.

Art. 2.1395 requires the office of the attorney general by rule to create a written and electronic form for the reporting by law enforcement agencies of incidents in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer. The form should contain only the information identified by the statute.

Art. 2.1395 requires the law enforcement agency employing the injured or deceased officer at the time of the incident, not later than the 30th day after the date of the occurrence of an incident, to complete and submit a written or electronic report, using the form created by the attorney general, to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information described in the statute.

Art. 2.1395 requires that the office of the attorney general, not later than February 1 of each year, to submit a report regarding all incidents that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include the total number of incidents that occurred, a summary of the reports submitted to the office under this article, and a copy of each report submitted to the office under this article.

Art. 2.1395 requires that the office of the attorney general, not later than October 1, 2015, create the reporting forms required under Articles 2.139 and 2.1395, Code of Criminal Procedure, as added by this Act.

**Impact:** The University of Texas System Office of the Director of Police and all University Police Departments will need to be aware of the new reporting requirements required by the Code of Criminal Procedure.

**Implementation:** The University of Texas System Office of the Director of Police and all University Police Departments will need to confirm that they have policies and procedures in place that mandate the new reporting requirements set out in the Code of Criminal Procedure.

**Effective:** September 1, 2015

Tamra J. English

[HB 3211](#) by King and Whitmire.

Relating to the training requirements for peace officers appointed to supervisory positions.

HB 3211 amends Section 1701.352(d) of the Occupations Code to require a peace officer, who is appointed or will be appointed to the officer's first supervisory position, to receive in-service training not earlier than the 12th month before the date of that appointment or later than the first anniversary of the date of that appointment.

**Impact:** The University of Texas System Office of the Director of Police and all University Police Departments will need to be aware of the training requirements for officers appointed to their first supervisory position.

**Implementation:** The University of Texas System Office of the Director of Police and all University Police Departments will need to confirm that their policies and practice comply with Section 1701.352(d). If one does not already exist, an in-service training on supervision must be created and implemented by the effective date of the statute.

**Effective:** September 1, 2015

Tamra J English

[HB 910](#) by Phillips, et al. and Estes, et al.

Relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.

Omits the word "concealed" in Subchapter H, Chapter 411 of the Government Code, which is the subchapter authorizing a license to carry concealed handguns, so that a person can receive a license to openly carry a handgun. Also omits the word "concealed" in various state statutes dealing with concealed handguns such as the Alcoholic Beverage Code, Family Code, and the Code of Criminal Procedure.

Amends Section 411.2032(b), Government Code, to provide that:

"Campus" means all land and buildings owned or leased by an institution of higher education.

"Institution of higher education" has the meaning assigned by Section 61.003 of the Education Code.

An institution of higher education may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Sections 30.06 or 30.07, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under this subchapter and lawfully possesses the firearm or ammunition:

- on a street or driveway located on the campus of the institution; or
- in a parking lot, parking garage, or other parking area located on the campus of the institution.

Amends Section 52.061, Labor Code, to provide that:

A public employer may not prohibit an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Amends Section 52.062, Labor Code, to provide that:

Section 52.061 does not:

- authorize a person who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law;
- apply to a vehicle owned or leased by a public employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties; or
- prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Amends Sections 30.06 (a), (c)(3), and (d), Penal Code, to provide that:

A license holder commits an offense if the license holder:

- carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder with a concealed handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

- (i) includes the language described by Paragraph (A) in both English and Spanish;
- (ii) appears in contrasting colors with block letters at least one inch in height; and
- (iii) is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Amends Chapter 30, Penal Code, by adding Section 30.07, to provide that:

A license holder commits an offense if the license holder.

- openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
- received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

In this section:

- "Entry" has the meaning assigned by Section 30.05(b).
- "License holder" has the meaning assigned by Section 46.035(f).

- "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and subsequently failed to depart.

It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

Amends Section 46.02(a-1), Penal Code, to provide that:

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411,

Government Code, and the handgun is carried in a shoulder or belt holster.

Amends Sections 46.035 (a)-(d), (g)-(j), and adds Subsection (a-1), Penal Code, to provide that:

(a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person and intentionally displays the handgun in plain view of another person in a public place, unless the handgun was partially or wholly visible and was carried in a shoulder or belt holster by the license holder.



(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person and intentionally displays the handgun in plain view of another person.

- on the premises of an institution of higher education; or
- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person:

- (13) on the premises of a business that derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption.
- (14) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. However, it is not an offense on the premises where a collegiate sporting event is taking place if the license holder was not given effective notice under Penal Code section 30.06.
- (15) on the premises of a correctional facility.
- (16) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing facility administration, as appropriate. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.
- (17) in an amusement park. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07; or
- (18) on the premises of a church, synagogue, or other established place of religious worship. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, at any meeting of a governmental entity. However, it is not an offense if the license holder was not given effective notice under Penal Code sections 30.06 or 30.07.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

(g) An offense under this section is a Class A misdemeanor, unless the offense is committed under Subsections (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsections (a) or (a-1) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9, Penal Code.

(j) Subsections (a), (a-1), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

The change in law made by this Act relating to the authority of a license holder to openly carry a holstered handgun applies to the carrying of a handgun on or after the effective date of this Act by any person who:

- holds a license issued under Subchapter H, Chapter 411, Government Code, regardless of whether the person's license was issued before, on, or after the effective date of this Act; or
- applies for the issuance of a license under that subchapter, regardless of whether the person applied for the license before, on, or after the effective date of this Act.

**Impact:** Open carry of handguns is prohibited in UT institution buildings or a portion of a building, and on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution. However, open carry will be legal just outside the boundaries of UT institutions in areas with high concentrations of students or employees in retail establishments, social gathering locations, or in private housing. These areas are also routinely patrolled by UT institution police and UT institution police regularly engage in law enforcement and order maintenance activities in these areas.

**Implementation:**

Training for UT System and UT institution police.

Educational materials/website for employees and students.

**Effective:** January 1, 2016

Jack C. O'Donnell

[HB 1783](#) by Moody, et al. and Menéndez

Relating to the right of a school employee to report a crime, persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency, and the reporting of criminal history record information of educators and other public school employees who engage in certain misconduct; creating a criminal offense.

HB 1783 requires a superintendent or director of a school to report to the State Board for Educator Certification if the educator's employment was terminated based on evidence that the educator was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor, or the educator resigned in light of evidence that there was misconduct involving a student or minor. Further, HB 1783 requires that an investigation of certain allegations involving misconduct with a student or minor be completed despite the resignation of the educator. HB 1783 prohibits a school from adopting a policy requiring a school employee to refrain from reporting a crime witnessed at the school or limiting their right to report a crime. HB 1783 also makes it a crime to coerce another into suppressing or failing to report information regarding violations of law to a law enforcement agency.

**Impact:** HB 1783 impacts UT System institution charter schools. They will be required to report certain allegations involving misconduct with a student or minor to the State Board for Educator Certification. They will also be required to complete an investigation of certain allegations of misconduct despite an educator's resignation. HB 1783 should not significantly impact UT System institution charter schools since policies with similar requirements should already be in place.

**Implementation:** UT System institution charter schools should review policies regarding educator misconduct to ensure that they comport with HB 1783 requirements (as well as UT System Sexual Misconduct policy) and include the requirement of SBEC notification. They should also ensure that there is no policy or practice prohibiting an employee from reporting a crime to any peace officer with the authority to investigate.

**Effective:** September 1, 2015

Priscilla A. Lozano

[HB 2633](#) by Hernandez, et al. and Perry

Relating to the release of a motor vehicle accident report.

HB 2633 amends Section 550.065 of the Transportation Code by changing the avenues to obtain completed motor vehicle accident reports.

Subsection (c)(4) adds the following types of people who can receive a motor vehicle report upon written request and payment of a fee: an agent of the law enforcement agency authorized by contract to obtain the information; any person directly concerned in the accident or having a proper interest therein, including any person involved in the accident; the authorized representative of any person involved in the accident; a driver involved in

the accident; an employer, parent, or legal guardian of a driver involved in the accident; the owner of a vehicle or property damaged in the accident; a person who has established financial responsibility for a vehicle involved in the accident in a manner described by Section 601.051, including a policyholder of a motor vehicle liability insurance policy cover the vehicle; and insurance company that issued an insurance policy covering a vehicle involved in the accident; an insurance company that issued a policy covering any person involved in the accident; a person under contract to provide claims or underwriting information to a person described by Subsections (F), (G), or (H) of Section 550.065; a radio or television station that holds an FCC license; a newspaper that is a free newspaper of general circulation or qualified to public legal notices, published at least once a week, and available and of interest to general public in connection with the dissemination of news; or any person who may sue because of death resulting from the accident.

Subsection (c-1) adds that a person who is not listed above may receive a redacted accident report that does not include information described in Subsection (f)(2), which includes but is not limited to the following identifying information such as the name of any person listed in the accident report; driver's license number; date of birth other than the year; the address, other than zip code, and telephone number of any person listed in an accident report; license plate number of any vehicle listed in an accident report; name of any insurance company listed as a provider of financial responsibility for a vehicle listed in an accident report; the insurance policy number; the date the investigating peace officer was notified of the accident; the date the investigating peace officer arrived at the accident site; badge number or identification number of the investigating officer; date of death as a result of the accident; date of any commercial motor vehicle report; and the place where any person injured or killed in an accident was taken and the person or entity that provided the transportation.

**Impact:** Motor vehicle accident reports, also known as CR-3 forms, are occasionally included within U.T. System and U.T. institution police reports. Accordingly, HB 2633 would require additional training to open records departments and police departments throughout U.T. System to ensure that the appropriate information is redacted and/or released to the designated individuals.

**Implementation:** UT System and UT institutions will have to be trained on how to respond to requests for CR-3 forms in light of the new additions and revisions to Section 550.065 of the Transportation Code. The Office of General Counsel (OGC) will provide an example of a redacted CR-3 in accordance with the new law. Moreover, if an individual as described above is entitled to full access to a CR-3 then UT institutions must decide on the type of proof needed to obtain the information. OGC suggests that a requesting person provide in writing that they meet the criteria for full access.

**Effective:** June 18, 2015

Audra Gonzalez Welter

**SB 1651** by Eltife and Murr

Relating to the employment of persons under 18 years of age on the premises of certain businesses selling or serving alcoholic beverages; adding a provision that is subject to a criminal penalty.

Section 106.09 of the Alcoholic Beverage Code provides that, except for certain exceptions, it is prohibited to employ a person under 18 years of age to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

SB 1651 modifies Section 106.09 to add a new exception to the above prohibition. Specifically, a holder of a permit or license providing for the on-premises consumption of alcoholic beverages may employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if:

- the permit or license holder derives less than 50 percent of its gross receipts for that premises from the sale or service of alcoholic beverages, and
- the alcoholic beverages are served by a person 18 years of age or older.

**Impact:** The changes made by SB 1651 are pertinent to any holders of permits or licenses for the on-premises consumption of alcoholic beverages that operate on UT property.

**Implementation:** The UT System Office of Business Affairs should inform the business offices at each of the UT institutions of the new exception implemented by SB 1651.

**Effective:** May 19, 2015

Scott Patterson

**SB 11** by Birdwell, et al. and Fletcher

Relating to the carrying of handguns on the campuses of and certain other locations associated with institutions of higher education; providing a criminal penalty.

This act amends various statutes, which will be addressed separately herein:

Chapter 411 of the Government Code revisions

Amends Subchapter H, Chapter 411 of the Government Code by adding section 411.2031 which provides that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by an institution of higher education.

Bars an institution of higher education from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on all land and buildings owned or leased by the institution of higher education, except that:

- an institution of higher education may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.
- an institution of higher education shall establish reasonable rules, regulations, or other provisions that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institution may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The institution must give effective notice under Section 30.06, Texas Penal Code, with respect to any portion of a premises on which license holders may not carry.

The Board of Regents shall review the institution’s rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules, regulations, or other provisions are established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution’s rules, regulations, or other provisions.

The institution shall widely distribute its rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.

Not later than September 1 of each even-numbered year, each institution of higher education shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution, and that explains its reasons for establishing these provisions.

#### Section 411.208 of the Government Code

Amends Section 411.208 (a), (b), and (d), and adds Subsection (f) of the Texas Government Code to provide that:

“Campus” means all land and buildings owned or leased by an institution of higher education.

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

A court may not hold the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor liable for damages caused by:

- an action authorized under Subchapter H, Chapter 411 of the Government Code or a failure to perform a duty imposed by Subchapter H; or
- the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under Subchapter H.

A cause of action in damages may not be brought against the state, an agency of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under Subchapter H, Chapter 411 of the Government Code.

The immunities granted above in this section do not apply to:

- an act or a failure to act by the state, an agency of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary; or
- any officer or employee of an institution of higher education who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

Section 46.03 of the Texas Penal Code

Amends Section 46.03 (a) and (c) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm

- on the physical premises of an educational institution, any grounds or building on which an activity sponsored by an educational institution is being conducted, or a

passenger transportation vehicle of an educational institution, whether the educational institution is public or private, unless:

- pursuant to written regulations or written authorization of the institution; or
  - the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.
- on the premises of a polling place on the day of an election or while early voting is in progress.

#### Section 46.035 of the Texas Penal Code

Amends Section 46.035 (f), (g), (h), and (j), and adds Subsections (a-1), (a-2), (a-3), and (l) of the Texas Penal Code to provide that:

“Institution of higher education” has the meaning assigned by Section 61.003 of the Texas Education Code.

“Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

A license holder commits a Class A misdemeanor offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder’s person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

- on the premises of an institution of higher education; or
- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.
- This offense does not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.
- It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

A license holder commits a Class A misdemeanor offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an



institution of higher education in this state on which the carrying of a concealed handgun is prohibited by institution rules, regulations, or other provisions, provided the institution gives effective notice under Section 30.06 with respect to that portion. This offense does not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission. It is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 of the Texas Penal Code.

It is not an offense for a license holder to carry a concealed handgun on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.

**Impact:** SB 11 allows licensed handgun holders to carry concealed handguns on all land and buildings owned or leased by the UT System or all UT institutions. It also requires the UT institutions to establish reasonable rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

The UT System, all UT institutions, or an officer or employee of either, may be held liable for damages for an act or a failure to act concerning actions authorized or duties imposed by this campus carry law if the act or failure to act was capricious or arbitrary.

Any officer or employee of the UT System or any UT institution who possesses a handgun on campus, and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage, may be held liable for damages.

Makes it a crime for a license holder to intentionally or knowingly display a handgun in plain view of another person:

- on the premises of UT System or any UT institution; or
- on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of UT System or any UT institution.

Makes it a crime for a license holder to intentionally carry a concealed handgun on a portion of a building located on campus on which the carrying of a concealed handgun is prohibited by a rule of the institution, provided the institution gives effective notice under Texas Penal Code Section 30.06 with respect to that portion.

**Implementation:** Requires the UT institutions to establish reasonable rules that take effect August 1, 2016 regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.

The Board of Regents shall review the institution's rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution within 90 days after the date the rules are established by the institution. The Board of Regents may, by a vote of not less than two-thirds of the Board, amend wholly or partly the institution's rules.

Each institution shall widely distribute its rules regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution to its students, staff, and faculty, including on its website.

Not later than September 1 of each even-numbered year, each institution shall submit a report to the legislature and to the standing committees with jurisdiction over the implementation of this law that describes its rules regarding the carrying of concealed handguns on the campus of the institution and that explains its reasons for establishing these provisions.

Training for UT System and UT institution police should be provided.

Educational materials will need to be provided for employees and students and, to the extent necessary UT System academic institutions may need to make modifications to current catalogs, publications, and websites

The institutions may establish rules concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

**Effective:** August 1, 2016

Jack C. O'Donnell

[SB 339](#) by Eltife and Klick, et al.

Relating to the medical use of low-THC cannabis and the regulation of related organizations and individuals; requiring a dispensing organization to obtain a license to dispense low-THC cannabis and any employee of a dispensing organization to obtain a registration; authorizing fees.

This bill adds Chapter 169, entitled "Authority to Prescribe Low-THC Cannabis to Certain Patients for Compassionate Use," to the Texas Occupations Code, and Chapter 487 entitled "Texas Compassionate-Use Act" to the Texas Health and Safety Code, and amends sections in Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act).

It allows for the use, dispensing, and regulation of low-THC cannabis as follows:

#### Registry

The Texas Department of Public Safety (DPS) will establish and maintain a secure online compassionate-use registry.

Registry must contain the information required by §487.054 (such as the name and DOB of the patient, dosage prescribed, and means of administration).

Requires that DPS ensure that the registry: 1) is designed to prevent more than one physician from registering as the prescriber for a person; 2) is accessible to law enforcement agencies and dispensing organizations; and 3) allows a physician qualified to prescribe low-THC cannabis to input safety and efficacy data derived from treatment of their patients.

#### Prescribing Low-THC Cannabis

Allows the use of “low-THC” cannabis only for patients with "intractable epilepsy," as defined in the bill.

A physician must prescribe the low-THC cannabis.

Physicians are qualified to prescribe low-THC cannabis if they have dedicated a significant portion of clinical practice to the evaluation and treatment of epilepsy and have held certain board certifications in epilepsy, neurology, neurology with special qualifications in child neurology, or neurophysiology. If they meet those requirements they can prescribe the low-THC cannabis if:

- the patient is a permanent resident of Texas;
- the physician complies with the registration requirements of §169.004 (registration as a prescriber for the patient in the compassionate use registry maintained by DPS);
- the physician certifies to DPS that: 1) the patient was diagnosed with “intractable epilepsy”; 2) the risk of the use of low-THC cannabis by the patient is reasonable in light of the potential benefit to the patient; and 3) a second physician qualified to prescribe low-THC cannabis has concurred with the physician’s risk/ benefit opinion and their concurrence is noted in the patient’s medical record; 4) the physician is registered as the prescriber for the patient in the compassionate use registry; and 5) the physician maintains a patient treatment plan containing certain information required by the bill.

#### Dispensing low-THC cannabis

DPS will be responsible for issuing and renewing licenses to operate as a dispensing organization to dispense low-THC cannabis.

Sets out detailed procedures and requirements to be eligible to dispense low-THC cannabis and procedures for dispensing.

#### Exceptions to current laws

Texas Pharmacy Act does not apply to low-THC dispensing organizations.

Prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing any type of regulation that would prohibit the cultivation, production, dispensing, or possession of low-THC cannabis as authorized by this chapter.

Exempts persons engaged in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in, or by-product created by, the production or cultivation of low-THC cannabis from certain marijuana offenses under conditions set out in this chapter.

Allows a licensed dispensing organization to possess the low-THC cannabis as a controlled substance without registering with the director of DPS.

**Impact:** This legislation seeks to create a legal route under Texas law for prescribing and dispensing of low-THC cannabis for patients of our UT Health Institutions and healthcare providers who have intractable epilepsy (but see “Implementation” section below).

**Implementation:** For Administrators, Legal, and Healthcare providers at UT Hospitals and Health Institutions:

Although this legislation may create a legal route under Texas law for prescribing and dispensing low-THC cannabis for patients with intractable epilepsy, it does not nullify current federal laws that apply in this area. Currently, the DEA still classifies cannabis (including low-THC cannabis and cannabidiol) as a schedule I substance under the Controlled Substances Act (CSA). It is not legal under federal law to prescribe a Schedule I substance, with the exception of FDA approved research programs. It is also not legal for a pharmacy to dispense a schedule I substance. One significant aspect of this Texas law is that a physician must “prescribe” the low-THC cannabis. This exposes physicians to potential federal criminal sanctions and actions. By contrast, doctors “recommend” medical marijuana or “certify” patients to use medical marijuana in the 23 states with comprehensive medical marijuana laws and the District of Columbia. Unlike “prescriptions,” there is legal precedent to support “recommendations” and “certifications” as being federally legal and protected under the First Amendment based on the Ninth Circuit case of *Contant v. Walters*, 309 F. 3d 629 (2002). During the legislative session there were proposed amendments to the bill which would have changed the physician “prescription” requirement to a physician “recommendation” requirement, but they were not adopted.

In addition to federal action, physicians who prescribe low-THC cannabis under this statute may be vulnerable to other types of actions. Since this statute authorizes physicians to prescribe low-THC cannabis if they comply with the statutory requirements, it is reasonable to conclude that Texas Medical Board (TMB) would not take licensing or disciplinary action against a physician based solely on prescribing low-THC cannabis if they comply with the statute; however, the statute does not contain a provision like that in HB 21 (“Right to Try” law) which expressly prohibits TMB action. Therefore, it cannot

be conclusively said that the TMB would not institute an action against a physician who prescribes low-THC cannabis. Also, this law would not necessarily protect physicians who are licensed in multiple states against a licensing action in another state. In any event, the TMB can still institute actions that are not based solely on the fact that low-THC cannabis was prescribed. Finally, while the TMB may not institute a licensing or disciplinary action, it is possible that prescribing low-THC cannabis will create complications with a physician's credentialing or hospital privileges.

Under this current federal law, UT hospitals, health institutions and healthcare providers should continue to comply with the applicable federal laws and regulations that apply to cannabis and other schedule I substances.

**Effective:** June 1, 2015

Bridget McKinley

[\*\*SB 158\*\*](#) by West, et al. and Fletcher, et al.

Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.

SB 158 amends the Occupations Code to authorize a police department of a municipality in Texas, a sheriff of a county in Texas who has received the approval of the commissioners court for the purpose, or the Department of Public Safety (DPS) to apply to the governor's office for a grant to defray the cost of implementing a body worn camera program and to equip peace officers with body worn cameras if that law enforcement agency employs officers who are engaged in traffic or highway patrol, otherwise regularly detain or stop motor vehicles, or are primary responders who respond directly to calls for assistance from the public. The bill requires the governor's office to set deadlines for applications for grants under Occupations Code provisions relating to law enforcement officers and to create and implement a matching grant program under which matching funds from federal, state, local, and other funding sources may be required as a condition of the grant. The bill requires a law enforcement agency that receives such a grant to match 25 percent of the grant money. The bill makes DPS eligible for such grants but prohibits DPS from being made subject to any requirement for matching funds. The bill authorizes the governor's office to conditionally award a grant to a law enforcement agency that has not adopted and implemented the body worn camera policy or the required training under the bill's provisions but prohibits money from being disbursed to the agency until the agency fully complies with such provisions.

SB 158 requires a law enforcement agency, as a condition of receiving a grant under the bill's provisions, to report to the Texas Commission on Law Enforcement (TCOLE) regarding the costs of implementing a body worn camera program, including all known equipment costs and costs for data storage. The bill requires TCOLE to compile the submitted information into a report and to submit the report to the governor's office and the legislature not later than December 1 of each year. The bill authorizes a law enforcement agency in Texas to enter into an interagency or interlocal contract to receive

body worn camera services and to have the identified operations performed through a program established by the Department of Information Resources.

SB 158 requires a law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body worn camera program to adopt a policy for the use of body worn cameras. The bill requires such a policy to ensure that a body worn camera is activated only for a law enforcement purpose and sets out additional required contents of the policy. The bill prohibits such a policy from requiring a peace officer to keep a body worn camera activated for the entire period of the officer's shift and requires such a policy to be consistent with the Federal Rules of Evidence and the Texas Rules of Evidence.

SB 158 requires a law enforcement agency, before the agency is authorized to operate a body worn camera program, to provide training to peace officers who will wear the body worn cameras and to any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras. The bill requires TCOLE, not later than January 1, 2016, to develop or approve a curriculum for such a training program in consultation with DPS, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs Association.

SB 158 requires a peace officer equipped with a body worn camera to act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body worn camera must be activated. The bill authorizes a peace officer equipped with a body worn camera to choose not to activate a camera or choose to discontinue a recording currently in progress for any non-confrontational encounter with a person, including an interview of a witness or victim. The bill requires a peace officer who does not activate a body worn camera in response to a call for assistance to include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera. The bill establishes that any justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

SB 158 limits the type of body worn camera used by a peace officer who is employed by a law enforcement agency that receives a grant under the bill's provisions and who is on duty to those body worn cameras issued and maintained by that agency and prohibits an agency from allowing its peace officers to use privately owned body worn cameras after receiving such a grant. The bill authorizes a peace officer who is employed by a law enforcement agency that has not received a grant or who has not otherwise been provided with a body worn camera by the agency that employs the officer to operate a body worn camera that is privately owned if permitted by the employing agency and requires an agency that authorizes the use of privately owned body worn cameras to make provisions for the security and compatibility of the recordings made by those cameras.

SB 158 makes it a Class A misdemeanor for a peace officer or other employee of a law enforcement agency to release a recording created with a body worn camera under the bill's provisions without permission of the applicable law enforcement agency.

SB 158 prohibits a recording created with a body worn camera that documents an incident involving the use of deadly force by a peace officer or a recording that is otherwise related to an administrative or criminal investigation of an officer from being deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded. The bill authorizes a law enforcement agency to release such a recording to the public if the agency determines that the release furthers a law enforcement purpose. The bill establishes that its provisions relating to body worn camera recordings as evidence do not affect the authority of a law enforcement agency to withhold, under state public information law, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.

SB 158 requires a member of the public, when submitting a written request to a law enforcement agency for information recorded by a body worn camera, to provide the date and approximate time of the recording, the specific location where the recording occurred, and the name of one or more persons known to be a subject of the recording. The bill establishes that a failure to provide all of the information required to be part of such a request does not preclude the requestor from making a future request for the same recorded information. The bill exempts information recorded by a body worn camera and held by a law enforcement agency from the disclosure requirement under state public information law relating to the availability of public information during normal business hours of a governmental body, except information that is or could be used as evidence in a criminal prosecution, which is subject to that requirement. The bill authorizes a law enforcement agency to seek to withhold such information subject to that disclosure requirement in accordance with relevant procedures, to assert any lawful exceptions to disclosure, or to release information requested by a member of the public after the agency redacts any information made confidential by law. The bill prohibits a law enforcement agency from releasing any portion of a recording made in a private space, defined by the bill as a location in which a person has a reasonable expectation of privacy, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative. The bill requires the attorney general to set a proposed fee to be charged to members of the public who seek to obtain a copy of a recording under the bill's provisions, requires the fee amount to be sufficient to cover the cost of reviewing and making the recording, and authorizes a law enforcement agency to provide a copy without charge or at a reduced charge if the agency determines that such a waiver or reduction is in the public interest.

SB 158 specifies deadlines by which certain requests, responses, and submissions by a governmental body relating to a body worn camera recording are considered timely, notwithstanding certain provisions of the state public information law. The bill establishes that an officer for public information who is employed by a governmental body and who

receives a voluminous request for information recorded by a body worn camera is considered to have promptly produced such information for purposes of state public information law if the officer takes the required actions before the 21st business day after the date of receipt of the written request.

SB 158 authorizes a law enforcement agency operating a body worn camera program on the bill's effective date to submit any existing policy of the agency regarding the use of body worn cameras to TCOLE to determine whether the policy complies with the bill's provisions and establishes that such an agency is not required to adopt or implement a policy or training program that complies with the bill's provisions before September 1, 2016.

**Impact:** UT System and its Institutions do not qualify for the grant program pursuant to SB 158. However, if UT System or any of its Institutions choose to implement a body worn camera program, the law enforcement agency must adopt a policy for the use of body worn cameras as outlined in SB 158. In addition, the law enforcement agency must provide training to peace officers who will wear the body worn cameras and to any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras.

**Implementation:** UT System and any of its Institutions that choose to implement a body worn camera program must adopt a policy for the use of body worn cameras. The policy must comply with the requirements of the statute. Any policies already in existence should be revised to comply with the statute. In addition, a training program must be created and implemented for officers who will wear the body worn cameras and for any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras.

**Effective:** September 1, 2015

Tamra J. English

**SB 273** by Campbell, et al. and Guillen

Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty.

Amends Chapter 411, Government Code, by adding Section 411.209 to provide that:

A state agency may not provide oral or written notice or by any sign that a license holder carrying a handgun is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

A state agency that violates this section is liable for a civil penalty of not less than \$1,000 and not more than \$1,500 for the first violation; and not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation. Each day of a continuing violation constitutes a separate violation.



A citizen of this state or a person licensed to carry a concealed handgun may file a complaint with the attorney general that a state agency is in violation if the citizen or person provides the agency a written notice that describes the violation and specific location of the sign found to be in violation and the agency does not cure the violation before the end of the third business day after the date of receiving the written notice.

Before a suit may be brought against a state agency for a violation, the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency charged with the violation a written notice that:

- describes the violation and specific location of the sign found to be in violation;
- states the amount of the proposed penalty for the violation; and
- gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency was found liable by a court for previously violating this section.

If the attorney general determines that legal action is warranted and that the state agency has not cured the violation within the 15-day period, the attorney general may sue to collect the civil penalty and may also apply for other appropriate equitable relief. A suit or petition may be filed in a district court in Travis County or in a county in which the

principal office of the state agency is located. The attorney general may recover reasonable expenses incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

Amends Section 46.035(c), Penal Code, to provide that:

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

**Impact:** UT System and UT institutions may be sued by the Attorney General for civil penalties and other expenses, for providing oral or written notice that a license holder carrying a handgun is prohibited from entering a UT building or land, if Penal Code sections 46.03 or 46.035 do not prohibit a license holder from carrying a handgun in the UT building or on the UT land.

**Implementation:**

Training for UT System and UT institution police.

Educational materials for campus administrators.

**Effective:** September 1, 2015

Jack C. O'Donnell

### **Civil Liability and Legal Services**

[HB 262](#) by Miles, et al. and Creighton, et al.

Relating to liability of an owner, lessee, or occupant of land that allows land to be used as a community garden.

HB 262 provides that an owner or lessee that gives permission to other persons to use land for a community garden does not by the grant of such permission ensure that the premises are safe or assume responsibility for personal injury or property damage suffered by persons entering the premises for purposes related to a community garden. The bill does not, however, limit the liability of the owner or lessee for injury caused by the willful or wanton acts or gross negligence of the owner or lessee. The bill does require that the owner or lessee post “a clearly readable sign in a clearly visible location on or near the premises” the stating “WARNING - TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER, LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF THIS PROPERTY AS A COMMUNITY GARDEN.”

**Impact:** The bill limits potential causes of action against UT institutions that allow community gardens on their campuses, but does require that the institutions post the mandated signage.

**Implementation:** Each UT institution that has a community garden on its campus (now or in the future) will need to make and post the required signage.

**Effective:** September 1, 2015

Marty Novak

[HB 1510](#) by Thompson, et al. and Garcia, et al.

Relating to liability of persons who lease dwellings to persons with criminal records

HB 1510 provides that no cause of action lies against a landlord or the landlord's agent solely for leasing a dwelling to a person convicted of, or arrested or placed on deferred adjudication for, a criminal offense. The bill does not, however, preclude a cause of action for negligence in leasing to a tenant (i) convicted of an offense for which court ordered community supervision is not available under Code of Criminal Procedure §42.12 (e.g., murder, aggravated robbery, aggravated sexual assault, aggravated kidnapping, indecency

with a child, injury to a child, compelling prostitution, etc.); or (ii) with “a reportable conviction or adjudication” under Code of Criminal Procedures Chapter 62 (Sex Offender Registration Program), if the landlord or landlord’s agent knew or should have known of the conviction of adjudication.

**Impact:** The bill provides some protection for each UT institution in the leasing of University housing, but does not relieve the general requirement that the institutions demonstrate reasonable diligence when evaluating and reviewing applicants for dorms and other student housing.

**Implementation:** The bill does not materially change the existing duties of the institutions when leasing student housing, but each UT institution must confirm that it has implemented appropriate procedures for reviewing the possible criminal history of applicants for student housing.

**Effective:** January 1, 2016

Marty Novak

[HB 2390](#) by Bohac and Creighton, et al.

Relating to civil liability arising from an employee wellness program.

A person who has an employment contract may not sue his or her employer for establishing, maintaining, or requiring participation in an employee wellness program unless:

- the program discriminates on the basis of a prior medical condition, gender, age, or income level; or
- the employer engages in intentional or reckless conduct.

**Impact:** This bill protects only employees who have employment contracts with a UT institution, such as faculty members and athletics coaches; it does not apply to most other employees, since they work at will, without contracts. When designing an employee wellness program, UT institutions should consult with their legal counsel to ensure that the program does not discriminate against persons— even inadvertently— because of prior medical conditions, gender, age or income level.

**Implementation:** Human resources departments should consult with their institution’s legal counsel or OGC to determine if their existing wellness programs comply with this new law.

**Effective:** September 1, 2015

Omar A. Syed

**SB 1116** by West and Smithee

Relating to a notice or document sent by mail or electronic mail by a court, justice, judge, magistrate, or clerk of a judicial court.

SB 1116 authorizes the courts and clerks of the state to send notice or other documents by electronic mail (excludes text, voicemail, social accounts like Facebook, among other methods) or by regular mail (defined as first class, not certified or hand delivery, etc.).

If a person is registered with the statewide electronic filing system, the email he uses in this system must be used, unless the court does not use the electronic filing system. If the court does not use the electronic filing system or if the person is not registered in that system, the email the person provides to the court/clerk must be used.

**Impact:** To the extent System and its institutions receive documents or other notices from the state courts/court clerks, we need to be aware that these notices can now be sent via e-mail. A heightened awareness will be required, and registration with the electronic filing system might be advisable for those who are actively involved with the state court system. Employees (particularly those who work in UT System Office of General Counsel and in the institutions' legal offices) who receive notices from the state courts/court clerks should be notified that these court notices may be sent via e-mail in the future. Failure to recognize the significance of an email received from the court (for example, a notice setting a deadline for action) and take the appropriate action could prejudice our rights in the pending action.

**Implementation:** System and its institutions need to be aware of this change to the law.

**Effective:** September 1, 2015

Traci L. Cotton

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