



# 2021 LEGISLATIVE UPDATE



KARCZEWSKI | BRADSHAW | SPALDING  
NICHOLS | LAMP | LANGLOIS

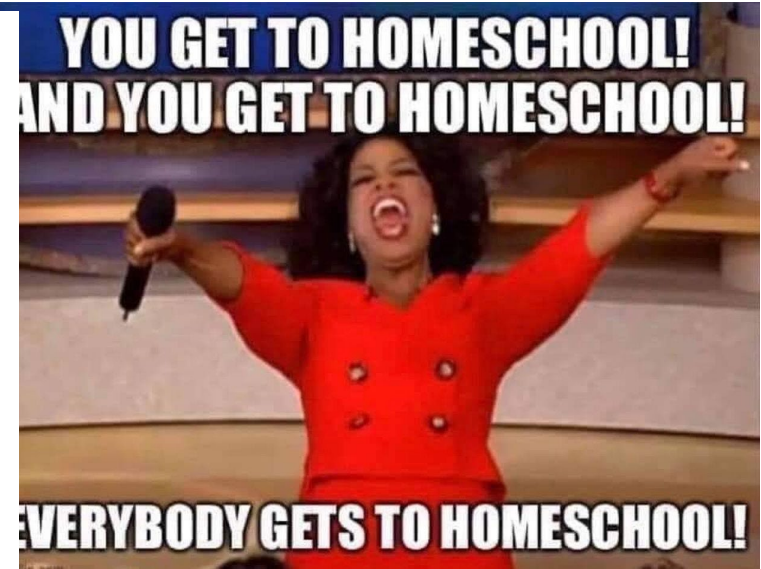
SARAH LANGLOIS, PARTNER  
KBS Law Group Houston

Oh, the last year....

Zoom meeting, audio only



Zoom meeting with video



**PARENTING DURING THE CORONAVIRUS SHUTDOWN:**

**DAY 1:**

**DAY 3:**



394th Judicial District Court

Recording of this hearing or live stream is prohibited.

Violation may constitute contempt of court and result in a fine of up to \$500 and a jail term of up to 180 days.

394th Judicial District Court

Jerry L. Phillips







Paul Lamp



Cory Rush



eriknichols



HollySherman



Ellen Spalding's iPad ...



Jacek K



Johnny Montgomery



Bryce Corsaut



MelissaGoins



Kathleen



Amy



paigebostic



Blaire Craven



Kendra



clarke hunter



Garrett Smith



Lena



Sierra Fisher



Sarah Langlois

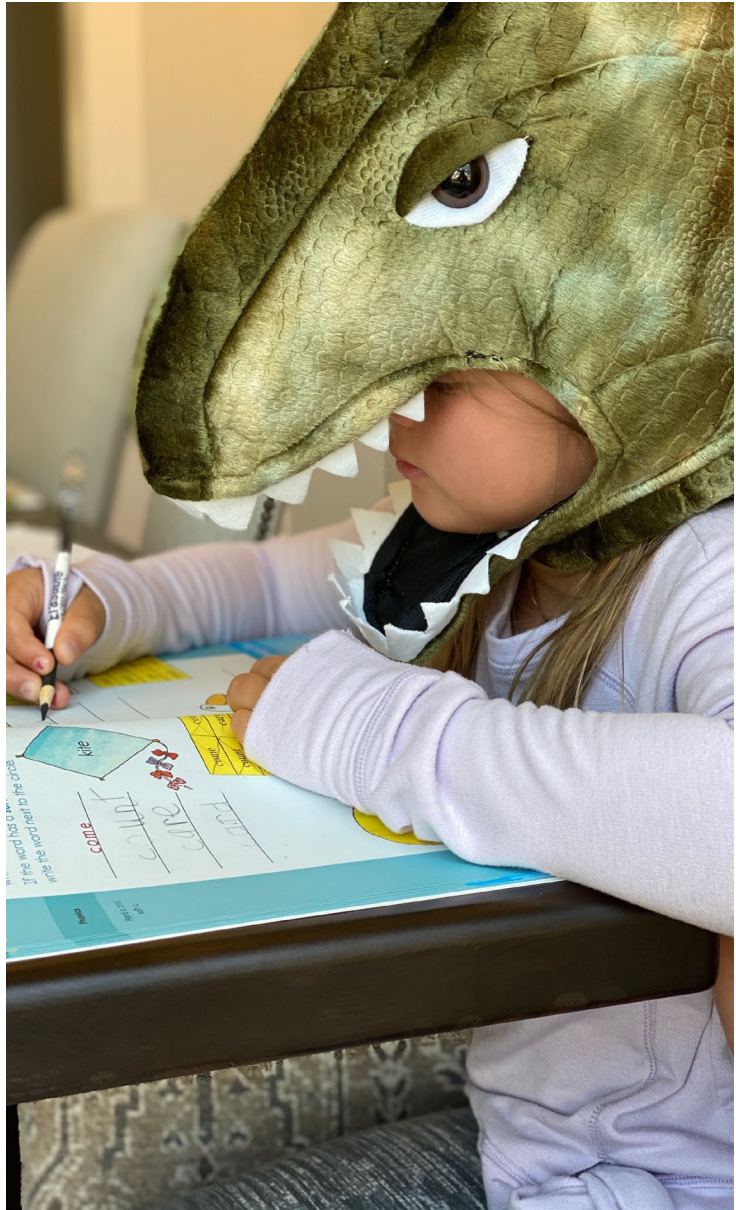


Amy's iPhone



Kirk Agee







**HOW DOES A BILL BECOME LAW?**



**NO ONE KNOWS ANYMORE BILLY, NO ONE KNOWS!**



**RECAP**

| legislative priorities

**improve civics  
education**



**fund education**

# 87<sup>th</sup> Legislative Session: By the Numbers



- **6,927** bills filed
- **1,073** bills passed by House & Senate
- **1,034** bills signed by the Governor
- **21** bills vetoed by the Governor



# Post-session statement from Governor Abbott

- “From Day One of this session, our priorities were centered around hardworking Texans and building a state that is safer, freer, healthier, and more prosperous. We added to that imperative that we secure the Texas power system to ensure it never fails again. We kept those promises . . .” – Governor Abbott

## Notable Bills that did not pass

HB 1468 relating to a local remote learning program operated by a public schools

SB 7 and HB 6 relating to voting and election integrity

SB 29 relating to requiring public school students to compete in athletics based on birth certificate identity

SB 28 relating to charter schools

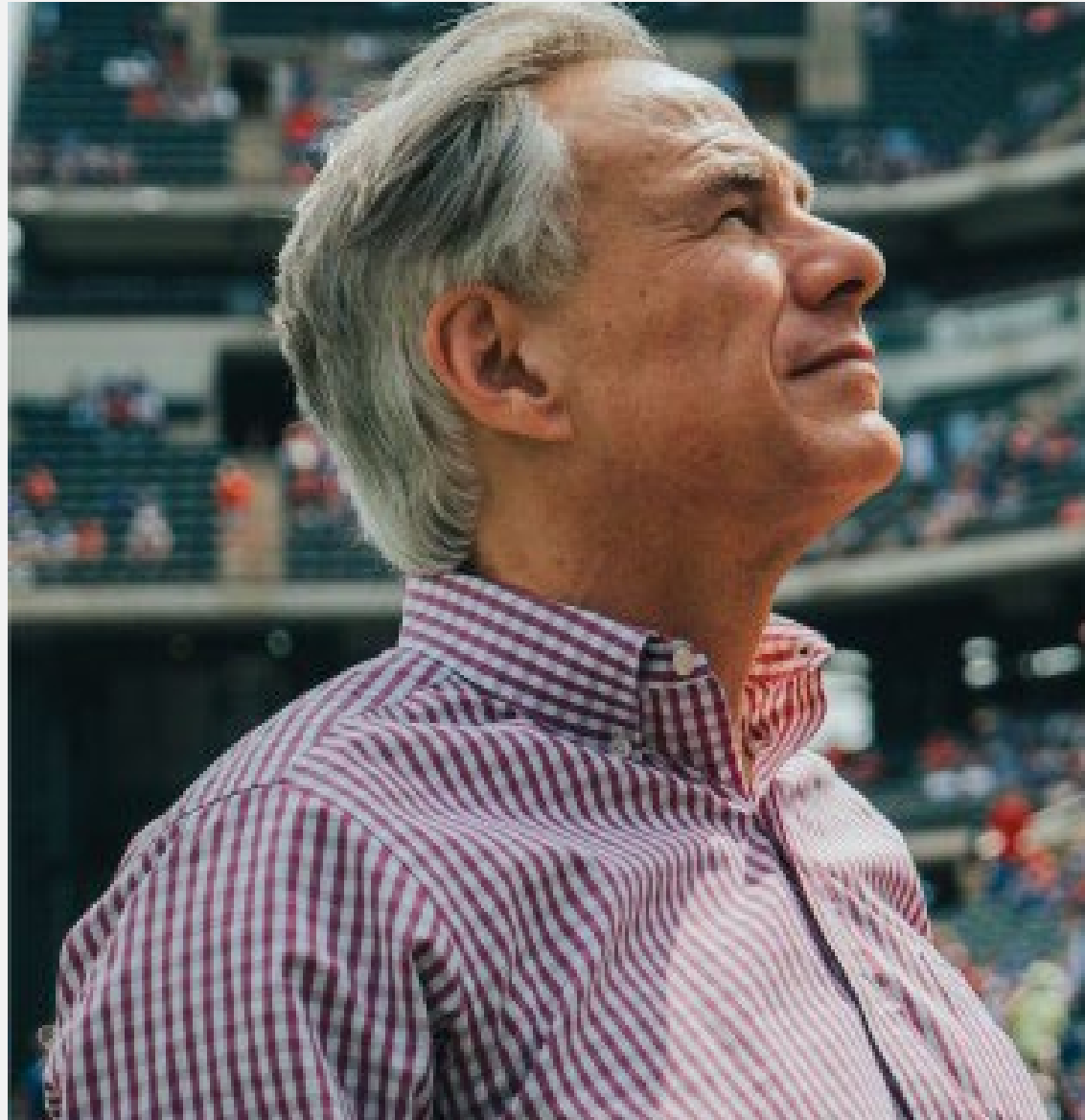


# Special Sessions

- May only be called by the Governor
- Maximum 30 days each (but an unlimited number of Special Sessions may be called)
- May be called at any time between regular sessions
- Topics limited to those set forth by the Governor







"The 87th Legislative Session was a monumental success for the people of Texas, but we have **unfinished business** to ensure that Texas remains the most exceptional state in America."

— Governor Greg Abbott

# PROCLAMATION

BY THE

## Governor of the State of Texas

---

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article III, Sections 5 and 40, and Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 87th Legislature, to convene in the City of Austin, commencing at 10:00 a.m. on Thursday, July 8, 2021, for the following purposes:

To consider and act upon the following:

Legislation reforming the bail system in Texas to protect the public from accused criminals who may be released on bail.

Legislation strengthening the integrity of elections in Texas.

Legislation providing funding to support law-enforcement agencies, counties, and other strategies as part of Texas' comprehensive border security plan.

Legislation safeguarding the freedom of speech by protecting social-media users from being censored by social-media companies based on the user's expressed viewpoints, including by providing a legal remedy for those wrongfully excluded from a platform.

Legislation providing appropriations to the Legislature and legislative agencies in Article X of the General Appropriations Act.

Legislation similar to Senate Bill 1109 from the 87th Legislature, Regular Session, requiring schools to provide appropriate education to middle- and high-school students about dating violence, domestic violence, and child abuse, but that recognizes the right of parents to opt their children out of the

# Special session agenda...

- Bail Reform
- Election Integrity
- Border Security
- Social Media Censorship
- Family Violence Prevention
- Youth Sports
- Critical Race Theory



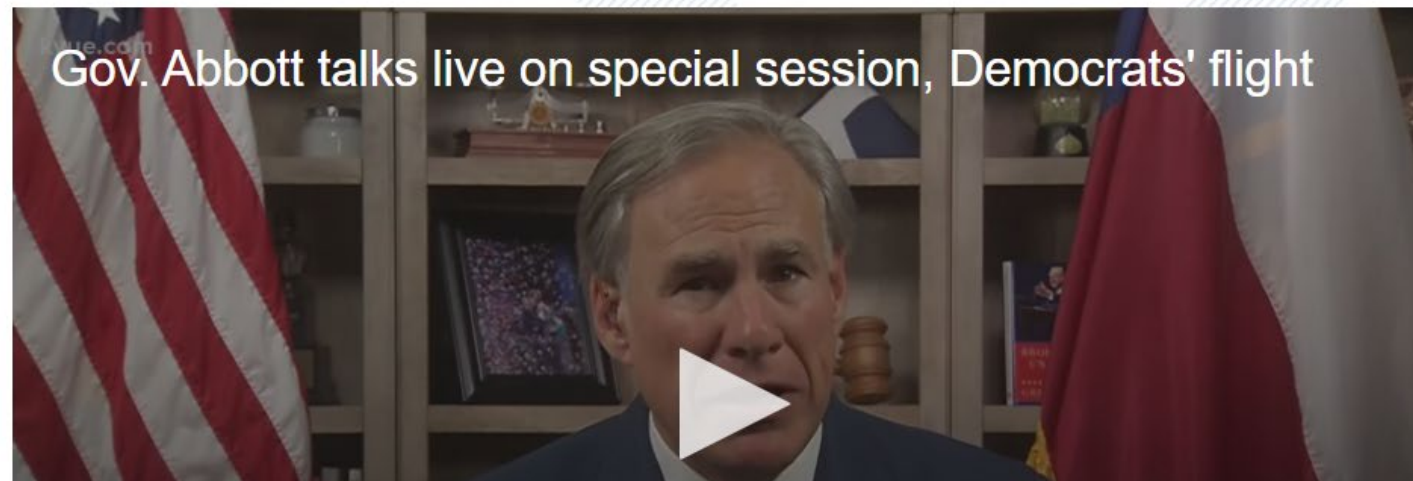




## TEXAS LEGISLATURE

# 'They will be arrested.' Gov. Abbott responds to Texas Democrats' flight to Washington, D.C.

The Texas Legislature's special session started on July 8. Among the issues that lawmakers are expected to address are bail reform and "election integrity."



# Special session #2...and more to come?



**Greg Abbott**  @GregAbbott\_TX · Jul 26 ...

I will keep calling Special Sessions until we address every emergency item—including funding for foster care, property tax relief & bail reform.

The Democrats' decision to break quorum inflicts harm on the very Texans who elected them to serve.



**Greg Abbott**  @GregAbbott\_TX · 1h ...

I'm convening a second special session on 8/7.

The [#txlege](#) must finish the work that was started.

I'll call special session after special session to reform our broken bail system, uphold election integrity, & pass other items Texans demand & deserve.

# PROCLAMATION

BY THE

## Governor of the State of Texas

---

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article III, Sections 5 and 40, and Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 87th Legislature, to convene in the City of Austin, commencing at 12:00 p.m. on Saturday, August 7, 2021, for the following purposes:

To consider and act upon the following:

Legislation reforming the bail system in Texas to protect the public from accused criminals who may be released on bail.

Legislation strengthening the integrity of elections in Texas.

Legislation providing appropriations from unappropriated available revenues for COVID-19-related healthcare expenses, such as those listed below, taking into consideration the approximately \$10.5 billion in funds received by local governments intended to be used on COVID-19 from the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2:

- healthcare staffing needs, including physicians, nurses, and other medical professionals;
- establishing, staffing, and operating alternative care sites;
- supporting the operations of nursing homes, state supported living centers, assisted living facilities, and long-term care facilities;
- vaccine administration;
- testing sites;





**86<sup>th</sup> Legislature**

HB 1495

# First: A look back at the 86<sup>th</sup> Legislature

**Today**

87<sup>th</sup> Legislature Regular Session and first Special Session concluded, second Special Session ongoing

# 86<sup>th</sup> Legislature: HB 1495

“House Bill 1495 passed during the 86th legislative session requires you to disclose the amount of funds that "directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action," TASBO does provide input on proposed TEA rules and regulations, as well as, periodically submitting comments on proposed legislation.

Approximately **3.50%** of our overall budget is spent on these activities. To be in compliance with the requirements of HB1495, you should disclose **3.50%** of an individual's dues paid to TASBO (**\$4.70 per membership**) beginning with the 21/22 budget. If you are a member of the Center for School Finance, you should also recognize **3.50%** of that membership fee as well.”

- Tracy Ginsburg, Executive Director of TASBO



**Today**

87<sup>th</sup> Legislature Regular Session and  
first Special Session concluded,  
second Special Session ongoing



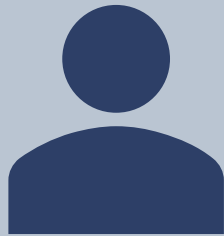
# 87<sup>th</sup> Legislature Regular Session: Roadmap



Taxation



Public Information  
& Privacy



Personnel



Purchasing &  
Operations



# TAXATION

HB 988

HB 2723





**HB 988**

# HB 988 Ad Valorem Taxation

- **Effective:** January 1, 2022 (except as provided otherwise)
- **Updates provisions related to:** ad valorem taxation, ARB (Appraisal Review Board) hearings, and limited binding arbitration
  - Unique **account numbers** for appraisal records
  - Option to have
    - contiguous parcels **combined** into a single appraisal record or
    - segments of a parcel **separated** into individual appraisal records





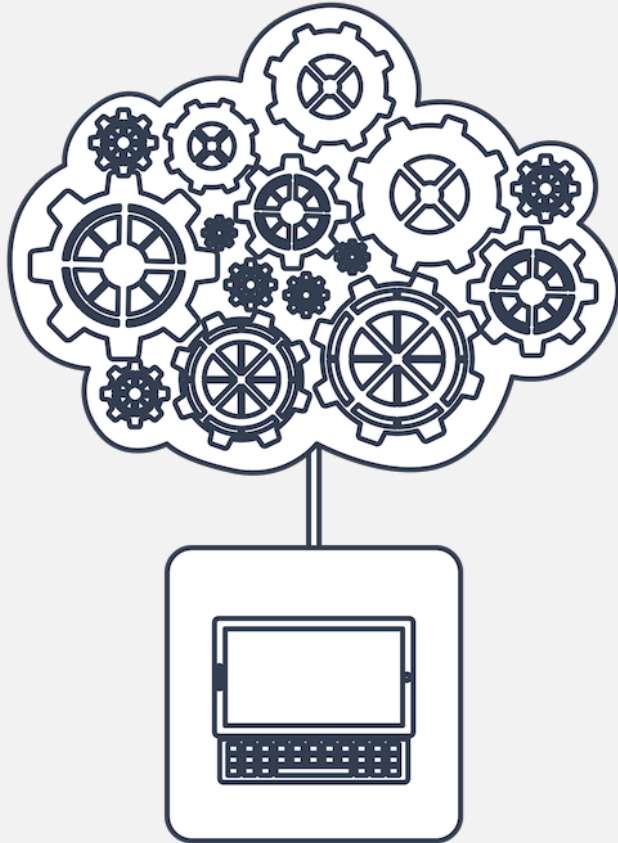
# HB 988 Ad Valorem Taxation

- Updates (continued)
  - Property owner can request **informal conference** with appraisal office before protest hearing



**HB 2723**

# HB 2723 Online Property Tax Information



- **Effective:** June 3, 2021 (applies to a notice required to be delivered for an ad valorem tax year that begins on or after January 1, 2022)
- **Updates provisions related to:** Notice of a school district public meeting

*“Visit [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes) to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property.”*





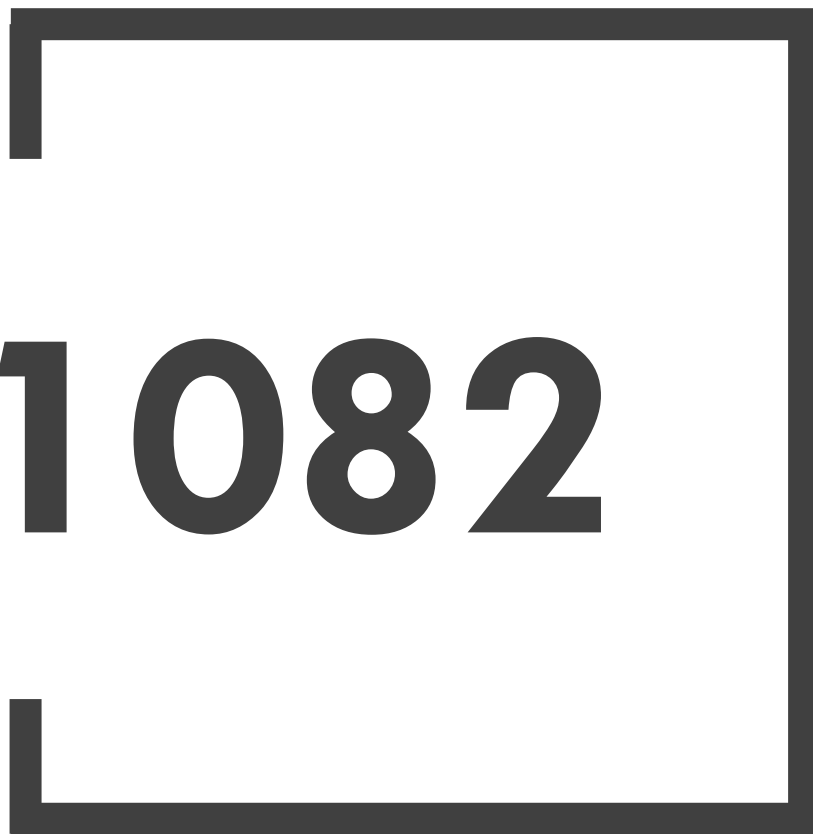
# **PUBLIC INFORMATION & PRIVACY**

**HB 1082**

**SB 1225**



**HB 1082**





# HB 1082 Certain Personal Information of Elected Public Officers

- **Effective:** May 19, 2021 (applies only to requests for information received on or after that date)
- Modifies description of officers eligible to have personal information (home address, telephone number, SSN, etc.) withheld from disclosure in tax appraisal records or under TPIA, both through permissive withholding and mandatory confidentiality

“state officer(s)  
elected statewide  
and/or a member(s)  
of the legislature”



“elected public  
officer”

**SB 1225**

# SB 1225 Temporary Suspension of the Public Information Act Due to a Catastrophe

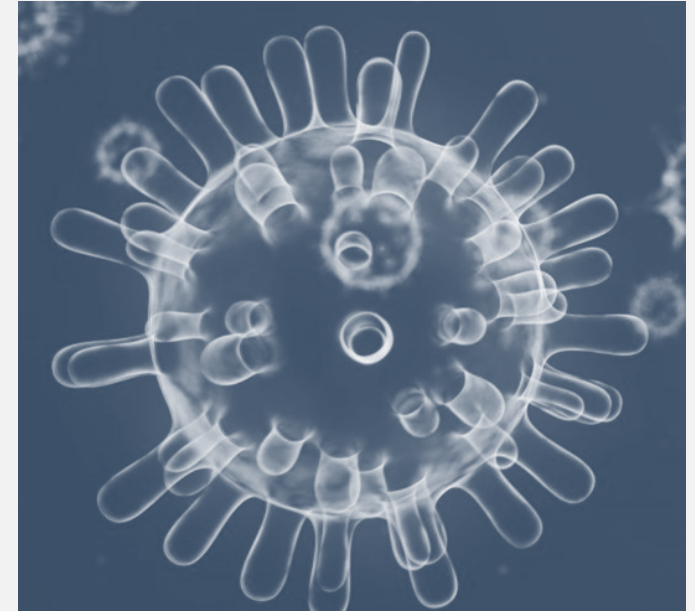


- **Effective:** September 1, 2021
- **Background:** Governmental body impacted by catastrophe may elect 7-day suspension period (and option for additional, consecutive 7-day extension period) during which TPIA compliance is not required

# SB 1225 Temporary Suspension of the Public Information Act Due to a Catastrophe

## Intent:

*“Before the COVID-19 pandemic, the catastrophe notice provision of the TPIA was rarely used. However, when **pandemic-related closures** began in March 2020, dozens of governmental bodies across Texas filed catastrophe notices. **Certain governmental bodies abused the temporary suspension process, requesting multiple, consecutive catastrophe notices.** This allowed for roadblocks to information at a time when Texans most needed to ask questions and obtain information. While a temporary suspension of responding to TPIA requests may be necessary during a disaster, overuse of the catastrophe notice provision is not consistent with the spirit of the law.”*



# SB 1225 Temporary Suspension of the Public Information Act Due to a Catastrophe

- Updates:

- “Catastrophe” = condition or occurrence **directly** interferes with governmental body’s ability to comply with TPIA

\*Excludes period where physical office is closed but staff is working remotely and can still electronically access information responsive to request = must make good faith effort to continue responding

- Suspension of TPIA only if governmental body **significantly** impacted by catastrophe **such that the catastrophe directly causes the inability of the governmental body to comply with TPIA requirements**
- **One** suspension period (and optional extension period) **per catastrophe** (max 14 days)





# PERSONNEL

SB 202

HB 750

SB 282





**SB 202**

# SB 202 Employer Payment of TRS Surcharge

- **Effective:** June 14, 2021 (applies beginning with 2021-2022 school year)



- Employer/ school district is responsible for paying the TRS surcharge
- School districts may not pass the expense to the rehired retiree through any sort of pay reduction/ fee/ any other direct or indirect means



**HB 750**

# HB 750: Internet Posting of District Employment Policy

Effective: September 1, 2021



**Internet:**  
Employment Policy  
Regulations



**Intranet:**  
Forms (if no intranet, at  
admin office)





**SB 282**

# SB 282 Settlement of Sexual Harassment Claims

- **Effective:** September 1, 2021
- **Background:** “Sexual harassment affects two out of every five women and one out of every five men in Texas. Prohibiting the use of state funds for sexual harassment settlements sends a **strong signal** to our elected and appointed officials that this **inappropriate behavior will not be tolerated**. This bill also protects Texas taxpayers from paying for claims against bad actors in state government.”

*Public money may not be used to settle or pay a sexual harassment claim made against any member of governing body/ officer/ employee of school district or OECS.*

# PURCHASING & OPERATIONS

## Construction

HB 692      SB 219  
HB 2116      SB 291  
HB 2581      SB 338  
HB 3069

## Purchasing

HB 1428      SB 1122  
HB 1476      SB 538  
SB 13      SB 799  
SB 19      SB 1821



**Construction**



**HB 692**



# HB 692 Retainage Requirements for Public Works Contracts

- **Effective:** June 15, 2021 (applies to contracts entered into on or after this date)
- **Background:** “Retainage” = amount held back (not paid) to secure contract performance
  - Definition of retainage: changes to “percent” (rather than “part”) of contract payment
  - New limits on retainage:
    - If contract valued at less than \$5M, retainage may not exceed 10% of contract price
    - If contract valued at \$5M or more, retainage may not exceed 5% of contract price



# HB 692 Retainage Requirements for Public Works Contracts

- **Updates** (continued)
  - Gov't entity may **not** withhold retainage:
    - After completion of the work, or
    - For purpose of requiring work on manufactured goods or systems
  - Gov't entity may **only** withhold retainage (and must give written notice of reason) if:
    - Bona fide dispute re: labor/ services/ materials that failed to comply with express contract terms, or
    - Surety on outstanding surety bond does not agree
  - If no bona fide dispute/ default, prime contractor entitled to cure or offer reasonable compensation; gov't entity not required to accept compensation



**HB 2116**

# HB 2116 Agreements with Architects and Engineers



- **Effective:** September 1, 2021 (applies to contracts entered into on or after this date)
- Construction contract for engineering/architectural services **cannot** require that licensed engineer/ architect **defend** against a claim based on owner's (or its agent/ employee) negligence, fault, or breach of contract
  - Does not apply if providing both design and construction services
- Contract **may** require:
  - Reimbursement of owner for **attorney fees** proportional to engineer/architect liability
  - Engineer/ architect to name owner as **additional insured**

**HB 2581**

# HB 2581 Evaluation of Criteria for Awarding Construction Projects

- **Effective:** September 1, 2021 (applies to contracts advertised for bids/ proposals/ offers/ qualifications on or after this date)
- Using method other than competitive bidding for construction services: must publish in RFP / RFQ a “**detailed methodology**” for scoring criteria used in evaluating offerors
  - After award, offeror who submitted a bid may request documents re: evaluation of its submission
  - Gov’t entity must, within 30 days, deliver documents, including how requestor’s submission was ranked





# HB 2581 Evaluation of Criteria for Awarding Construction Projects

- **Updates** (continued)

- Civil works projects using competitive sealed proposals= weighted value for **price** must be at least **50 percent** of total weighted value UNLESS governing body of the gov't entity determines lower weighted value is in the public interest

in which case, weighted value for price must be not less than **36.9 percent** of the total weighted value

- Competitive sealed proposals= gov't entity must make evaluations (including scores) public and provide them to all offerors within 7 days of award
- 15 (rather than 10) days after award to file action for declaratory/ injunctive relief



**HB 3069**



# HB 3069 Statute of Repose for Construction Claims

- **Effective:** June 14, 2021 (for contracts entered into after this date, these changes apply to a cause of action that commences on or after this date)



- **Reduces “statute of repose” from 10 years to 8 years** for construction defect suits against design professional or contractor brought by gov’t entities
  - Starts running upon **substantial completion** of construction project
  - Written claim presented within 8-year period: period extended for **1 year** from date claim presented
  - Damage occurs during last year of 8-year period: bring suit no later than **2 years** after date COA accrued



**SB 219**

# SB 219 Responsibility for Defects in Construction Plans and Specifications

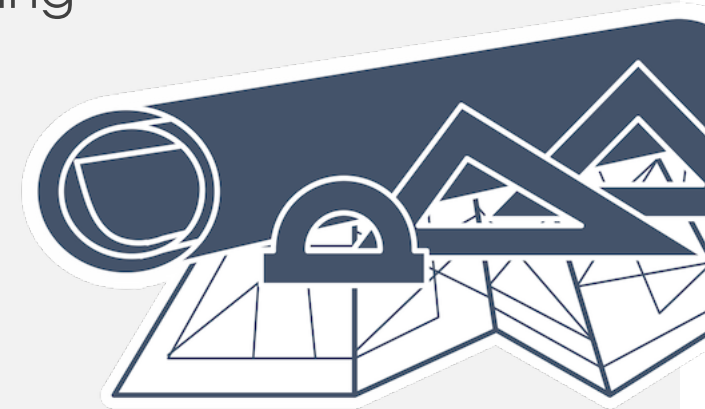
- **Effective:** September 1, 2021 (applies to contracts entered into on or after this date)

*Lonergan:* Contractor liable for building improvement with defective design

*Spearin:* Owner impliedly warrants sufficiency of plans and specs, so if contractor is bound to build according to those, it is not responsible for consequences of defects

# SB 219 Responsibility for Defects in Construction Plans and Specifications

- **Effect of SB 219:** Texas adopts *Spearin*--contractor generally not responsible for the consequences of design defects in plans/ specs/ design documents that a third party provides
  - Cannot be waived
- **Applies to:** initial construction, addition, repair/alteration/remodeling
- **Does not apply to:**
  - construction or repair of certain critical **infrastructure facilities**;
  - **design-build contract** or an engineering, procurement, and construction contract; or
  - contractor's agreement to provide **input and guidance** on plans/specifications/other design documents IF signed and sealed work product and incorporated into the construction plans/ specs



# SB 219 Responsibility for Defects in Construction Plans and Specifications



- **Duty to disclose:** contractor has duty to disclose in writing any **known defects** it discovers (or reasonably should discover using ordinary diligence)
  - If not, liable for the consequences of defects resulting from failure to disclose
- **Architect and Engineer Standard of Care:**

“[T]he architectural or engineering services [must] be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license.”





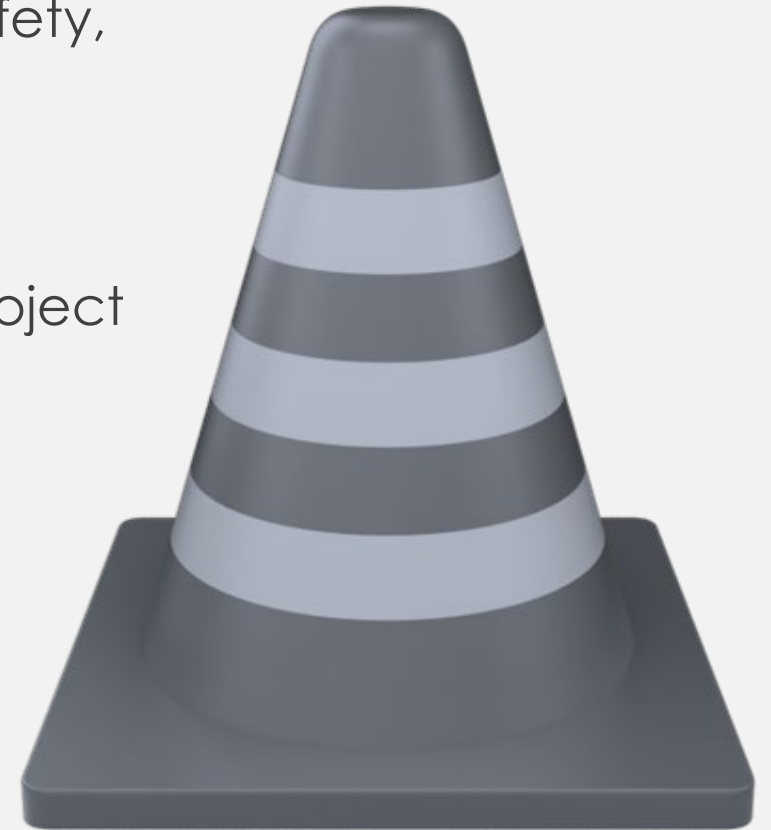
**SB 291**

# SB 291 Posting Information at Construction Sites

- **Effective:** September 1, 2021
- **Purpose:** To enable owners of property neighboring construction sites “to communicate with developers about local concerns, safety, traffic, and noise or air pollution.”

Developer (term not defined) of a commercial building project must visibly post at the entrance to the construction site:

- Developer’s **name and contact information** and
- Brief **description** of the project
- “Commercial” includes a public purpose





**SB 338**

# SB 338 Uniform General Conditions for School District Construction Contracts



- **Effective:** June 7, 2021

School district **may** adopt Texas Facilities Commission's (TFC) uniform general conditions into construction contracts

Adds to TFC's review committee:

- 1 rep from TASB and
- 1 rep from TASA



**Purchasing**

**SB 1821**

# SB 1821 Amendments to Contingent Fee Contracts for Legal Services



- **Effective:** June 7, 2021 (applies to a contract/ contract amendment entered into on or after this date)
- **Purpose:** to prevent the practice of some school districts of amending previous contingency fee contracts with lawyers to avoid application of bill from last session, which addressed how political subdivisions contract with contingency fee lawyers
- Amends definition of “**contingency fee contract**” to clarify that it includes an **amendment** to such a contract if amendment:
  - Changes the scope of representation or
  - May result in filing an action/ amending a petition in existing action



**HB 1428**



# HB 1428 Contingent Fee Contracts for Legal Services

- **Effective:** September 1, 2021 (applies to contracts entered into on or after this date)
- Broadens an exception to certain legal requirements for contingent fee contracts for legal services entered into by political subdivisions
- Now, rather than the exception being limited to contracts for (1) delinquent tax collection and (2) collections for cities and counties, the exception applies to **all contracts for collections of an obligation:** debt, judgment, fee, fine, etc.



**HB 1476**

# HB 1476 Disputed Payments to Vendors

- **Effective:** September 1, 2021 (applies to a contract entered into on or after this date)
- Adds requirement that gov't entity notify vendor of any error or "disputed amount" in a vendor invoice within 21 days of receipt
  - Notice to include a **detailed statement** of the disputed amount
  - Gov't entity may not **withhold** from payments more than **110%** of disputed amount





**SB 13**

# SB 13 Investments and Contracts with Companies that Boycott Energy Companies

- **Effective:** September 1, 2021
- **Background and purpose:** “Oil and natural gas represents nearly a third of Texas's GDP and funds more than 10 percent of the state's budget. The burgeoning fossil fuel discrimination movement is denying capital to our responsible, hard-working energy businesses, which means the energy we need will be less affordable and less secure.”
- Prohibits **investments** in and **contracts** with certain companies that boycott energy companies
  - Comptroller to prepare and maintain (and post online) list of financial companies that boycott energy companies
  - Investment provisions only apply to state agencies!



# SB 13 Investments and Contracts with Companies that Boycott Energy Companies

## THIS APPLIES TO SCHOOL DISTRICTS!

- Contract Prohibitions (changes apply only to contracts entered into on or after effective date, September 1, 2021):
  - Contract for goods / services between a governmental entity and a company (excluding a sole proprietorship) with 10 or more full-time employees that has a value of \$100,000 or more to be paid wholly or in part from public funds must contain a **written verification** from the company that:
    - It does not boycott energy companies and
    - It will not boycott energy companies during the term of the contract





**SB 19**



## SB 19 Contracts with Companies that Discriminate Against Firearm Industry

- **Effective:** September 1, 2021 (applies only to contracts entered into on or after this date)
- **Background and purpose:** “Large banks and other financial institutions in our country have quietly enacted policies to restrict gun sales and exert pressure on the firearm industry. These institutions hold our money and attempt to use financial pressure to infringe upon our Second Amendment rights. This is unacceptable. . . . This bill will **ensure that any company in Texas with a policy that attempts to restrict gun or ammunition sales will not be allowed to benefit from tax dollars through state contracts.**”

# SB 19 Contracts with Companies that Discriminate Against Firearm Industry

- Contract Prohibitions:
  - Contract for goods / services between a governmental entity and a company (excluding a sole proprietorship) with 10 or more full-time employees that has a value of \$100,000 or more to be paid wholly or in part from public funds must contain a written verification that the company:
    - does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and
    - will not discriminate against a firearm entity/ firearm trade association during the term of the contract
- Exceptions:
  - **Sole-source** provider, or
  - **No bids** from a company able to provide the verification



**Add new  
certification to  
Vendor Packets!**

# SB 19 Contracts with Companies that Discriminate Against Firearm Industry

## “Discriminate” =

Refuse to trade with/  
refrain from continuing  
existing business relationship/  
terminate existing business  
relationship

**solely** because of the entity's  
status as a firearm entity or  
firearm trade association

## Does not include:

- Taking any of those actions to comply with law / policy / regulations / regulatory directive,  
or  
for any traditional business reason
- Established policies restricting or prohibiting the listing or selling of firearms/ ammunition/ firearm accessories

**SB 2116**



# SB 2116 Prohibition on contracts with Certain Foreign-Owned Companies in connection with Critical Infrastructure

*Effective June 18, 2021*

**Gov't entity may not enter into a contract/other agreement relating to critical infrastructure w/ a company:**

(1) If the company would be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the gov't entity for product warranty and support purposes; and

(2) if the gov't entity knows that the company is:

(A) owned by or the majority of stock or other ownership interest of the company is held or controlled by:

- (i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or
- (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B) headquartered in China, Iran, North Korea, Russia, or a designated country.



# Sidebar: Texas Comptroller has updated its divestment statute lists, effective June 2021

[home](#) » [purchasing](#) » [publications](#)



## DIVESTMENT STATUTE LISTS

The Comptroller provides the following divestment lists in connection with [Tex. Govt. Code 808.051](#) (HB 89, 85th R.S.), [Tex. Govt. Code 2252.153](#) (SB 252, 85th R.S.), and [Tex. Govt. Code 2270.0209](#) (SB 253, 85th R.S.), and for compliance with contracting requirements referenced in [Tex. Govt. Code 2252.152](#) (SB 252, 85th R.S.) and [Tex. Govt. Code 2270.002](#) (HB 89, 85th R.S.).

- [Companies that Boycott Israel](#) (PDF) — *Updated June 2021*
- [Scrutinized Companies with ties to Sudan](#) (PDF)— *Updated November 18, 2020*
- [Scrutinized Companies with ties to Iran](#) (PDF)— *Updated November 18, 2020*
- [Designated Foreign Terrorist Organizations](#) (PDF) — *Updated June 2021*
- [Scrutinized Companies with ties to Foreign Terrorist Organizations](#) (PDF)
- [FAQ for Investing Entities](#) (PDF)

<https://comptroller.texas.gov/purchasing/publications/divestment.php>

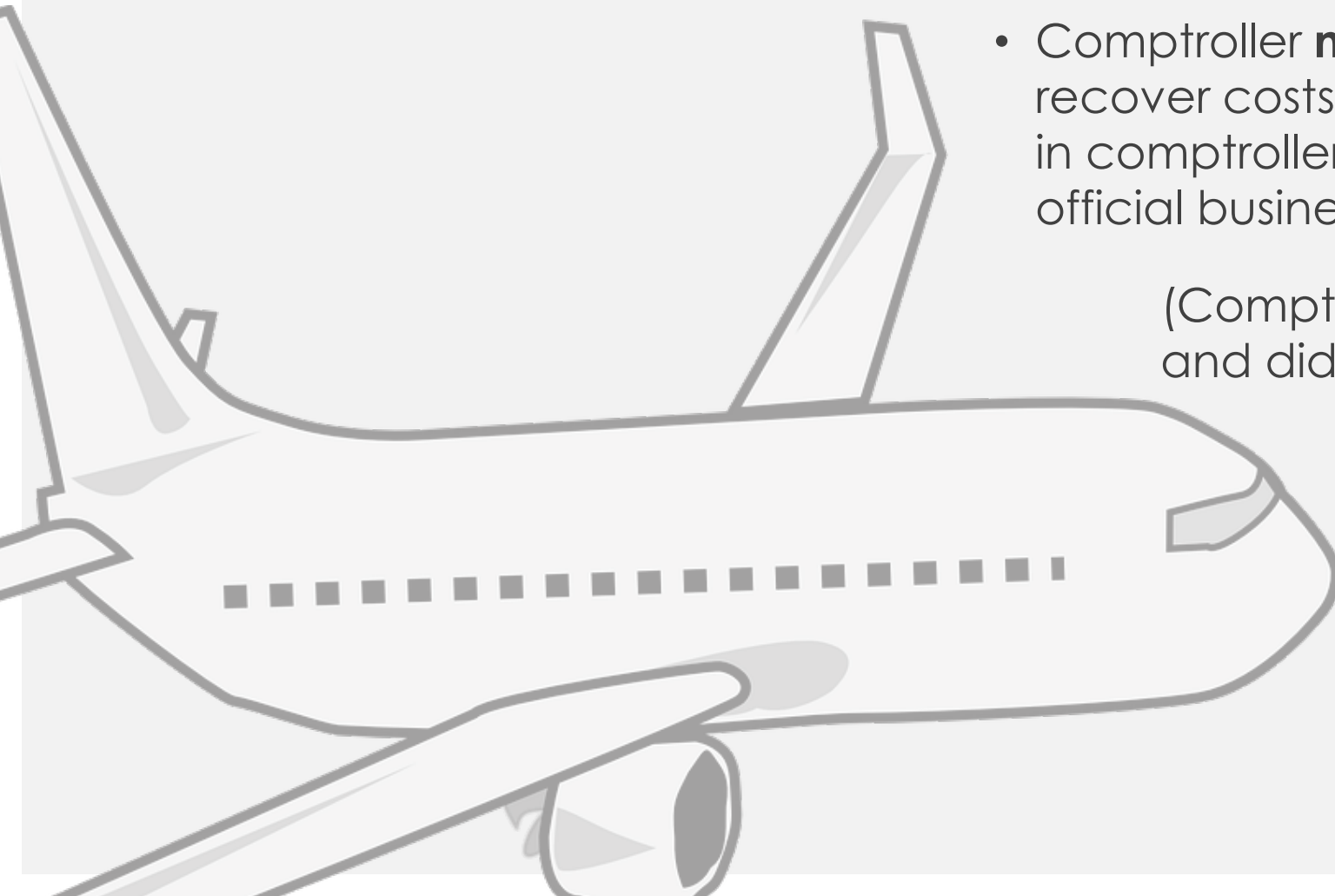
**SB 1122**



# SB 1122 Comptroller Contract for Travel Services

- **Effective:** May 28, 2021
- Comptroller **may no longer charge a fee** to recover costs of local gov't entities' participation in comptroller's contract for travel services for official business

(Comptroller apparently was not collecting and did not plan to collect.)







**SB 538**

# SB 538 Information Technology Commodity Items Sold by DIR

- **Effective:** May 24, 2021
- Amends definition of “commodity items” so that DIR may now offer products/ services in demand by two or more **“customers, including state agencies and political subdivisions of this state”** (rather than only “state agencies”)





**SB 799**

# SB 799 Professional Medical Services and Cooperative Purchasing

- **Effective:** September 1, 2021 (applies only to contract for which state agency first advertises/ solicits bids on or after this date)
- Permits gov't entity procuring the services of a physician/ optometrist/ registered nurse to make selection and award based on:
  - Provider agreement to payment of a **set fee** (as range or lump-sum amount), and
  - Provider affirmation that he/she has necessary **occupational licenses and experience**, as verified by gov't entity
- Award **not** subject to competitive advertising and proposal evaluation requirements



# SB 799 Professional Medical Services and Cooperative Purchasing



- **Update** (continued)
- Amends provision on management fees under cooperative purchasing contracts to state that contract-related fees, including management fees, may be paid **by or to** the district:

“A school district that enters into a purchasing contract valued at \$25,000 or more under [a] cooperative purchasing program . . . shall document a contract-related fee, including a management fee, **paid by or to the district** and the purpose of each fee under the contract.”

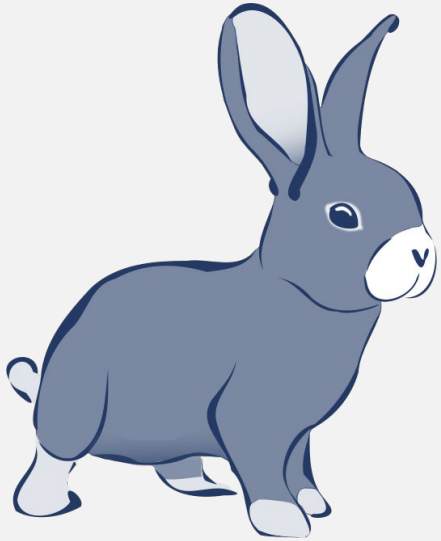


# *Lagniappe*

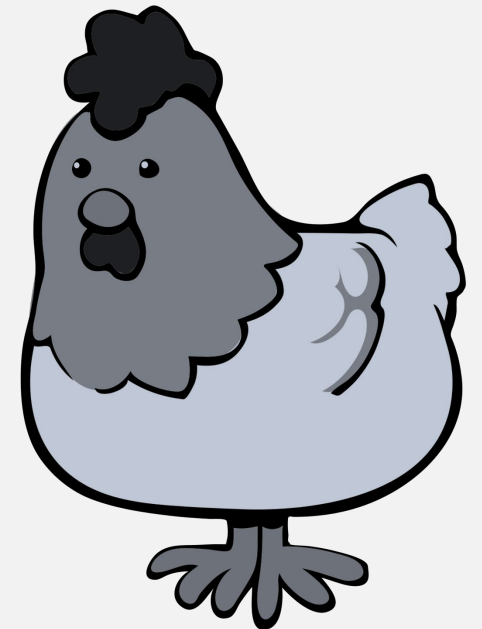
(LAN-yap)  
a little something extra,  
something unexpected,  
a random mix.

**HB 2535**

# HB 2535 Exclusion of Chicken Coops and Rabbit Pens



- **Effective:** January 1, 2022 (applies only to property appraisals for tax years beginning on or after this date)
- Chief appraiser to analyze and exclude the value of any **chicken coops or rabbit pens** (used for the noncommercial production of food for personal consumption) from the market value of real property





**HB 2721**



*“Concerns have been raised over an incident reported recently involving a high school football player assaulting a referee on the field during a football game, which has sparked calls to limit participation in and practice for future extracurricular activities when a student engages in certain assaultive conduct.”*



# HB 2721 Assault of an Extracurricular Activity Official

- **Effective:** June 16, 2021 (applies beginning with the 2021-2022 school year)

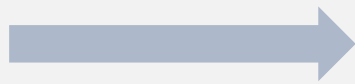
If a student **intentionally, knowingly, or recklessly** causes **bodily injury** to a **referee, judge, or other official** in **retaliation** for or as a result of the person performing their duties in that position,

then the student is **prohibited from participating** in any future extracurricular activities sponsored or sanctioned by the district or the UIL

# HB 2721 Assault of an Extracurricular Activity Official

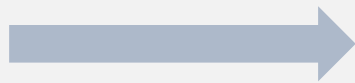
- Before request to participate, student must:
  - Complete a course in **anger management**
  - Complete any other requirement of the **district**
  - Demonstrate that he/she has been **rehabilitated** and is unlikely to engage in the conduct again

If enrolled in **grade 8 or below** at the time of the conduct



May request to participate **one year** after the conduct

If enrolled in **grade 9 or above** at the time of the conduct



May request to participate **two years** after the conduct

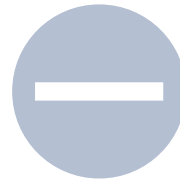
# HB 2721 Assault of an Extracurricular Activity Official



One request per year



UIL to consider conduct severity and may set conditions for future participation; if violated, can prohibit any future participation



No practicing/  
rehearsing



Not a contested case

<https://www.youtube.com/watch?v=b6s4CwjjMFA>



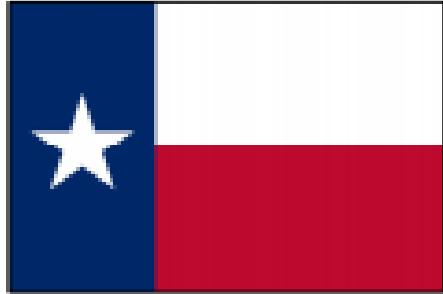
**SB 797**

# SB 797 Display of National Motto

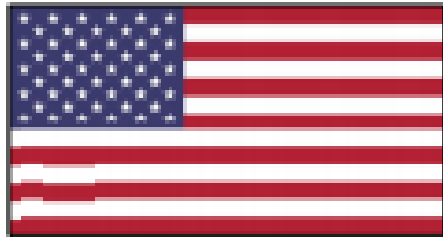
- **Effective:** June 15, 2021

If a **durable poster or framed copy of the U.S. national motto** is **donated** to or purchased from private donations to a public elementary or secondary school or an institution of higher education, then the school or institution **must display it** in a conspicuous place in each building of the school or institution

*“a representation of the United States flag centered under  
the national motto and a representation of the state flag”*

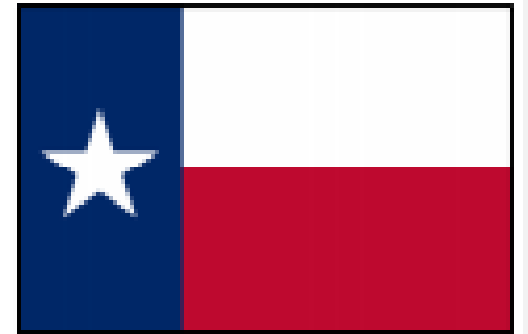
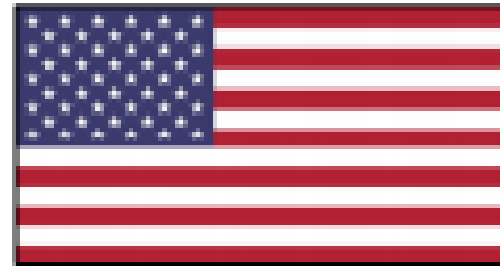


**In God We Trust**



**OR**

**In God We Trust**

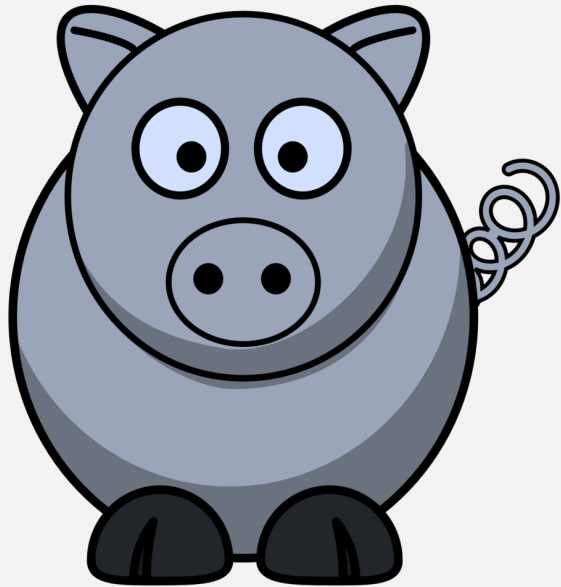




**SB 1997**



# SB 1997 Control of Swine Diseases




- **Effective:** September 1, 2021
- Updates the disease name from “hog cholera” to “classical swine fever”
- Requires that vaccination be administered by a veterinarian or federal / state regulator, rather than the owner or a county agent

**HB 1024**



# HB 1024 Alcohol to-go!

 KPRC2 / Click2Houston   
May 12 ·   
"It turned out that Texas liked [alcohol to go] so much, the Texas Legislature wanted to make that permanent law in the state of Texas," Abbott said Wednesday.



CLICK2HOUSTON.COM

Texas law now allows alcohol to go from restaurants after Gov. Greg Abbott signs bill



# TEA Contractor Fingerprinting Guidance

# TEA Contractor Fingerprinting Guidance

- **Existing law:** A contractor providing services to a school district or charter school must be fingerprinted if the contractor
  - 1) will have **continuing duties** related to the contracted services, and
  - 2) will have the opportunity for **direct contact** with students

The contractor must also **certify** to the school district or charter school that it has received all criminal history information for its **employees** who provide services for the school

UNLESS the contractor uses separate sanitary facilities, installs a barrier fence, and has a policy that employees may not interact with students or enter areas used by students

## SB 9 Contractor Certification: Contractor Employees (As applicable)

**Background:** Texas Education Code Chapter 22 requires entities that contract with school districts to obtain criminal history records on covered employees. Covered employees with disqualifying criminal histories are prohibited from serving at a school district. Contractors must certify to HCDE that they have complied and must obtain similar certifications from their subcontractors. See *SB 9 Contractor Certification: Subcontractor Attachment*. The law requires each contractor to obtain the criminal histories of its covered employees. For more information or to set up an account, a contractor should contact the Texas Department of Public Safety's Crime Records Service at 512.424.2474.

### **Definitions:**

**Covered employees:** Employees of a contractor who have or will have continuing duties related to the service to be performed at a school district and have or will have direct contact with students. HCDE will be the final arbiter of what constitutes *continuing duties* and *direct contact* with students.

**Public Works Exception to Covered Employees:** Covered employees do not include employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work if: (1) the public work does not involve the construction, alteration, or repair of an instructional facility as defined by Texas Education Code Section 46.001; (2) the employee's duties will be completed more than seven (7) days before a new instructional facility will be used for instruction; or (3) for an existing instructional facility, the work area contains sanitary facilities separated from all areas used by students by a fence at least six (6) feet high, and the Contractor adopts, informs employees of, and enforces a policy prohibiting employees and any subcontractor's employees from interacting with students or entering areas used by students.

**Disqualifying criminal history:** (1) a conviction or other criminal history information designated by HCDE; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: if at the time of the offense, the victim was under 18 or was enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b).

### Types of Criminal History Record Information:

- For employees hired by Contractor before January 1, 2008—Any law enforcement or criminal justice agency;
- For employees hired by Contractor on or after January 1, 2008—National criminal history information from the Texas Department of Public Safety criminal history clearinghouse.

On behalf of \_\_\_\_\_ ("Contractor"), I, the undersigned authorized signatory for Contractor, certify to Harris County Department of Education ("HCDE") that [check one]:

None of Contractor's employees are *covered employees*, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that its employees will not become *covered employees*. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

Or

Some or all of Contractor's employees are *covered employees*. If this box is checked, I further certify that:

- (1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
- (2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify HCDE in writing within 3 business days.

# TEA Contractor Fingerprinting Guidance



# TEA Contractor Fingerprinting Guidance

## 2007

- FBI notified DPS that TEC §22.0834 [the law requiring contractors to obtain CHRI and certify compliance to the district] should be amended to provide **access to school districts only**


## 2019 FBI Audit

- FBI instructed DPS that **contractors cannot have access to national criminal history record information**, given status as private entities



# TEA Contractor Fingerprinting Guidance

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## Requirements for School District Contractors

Updated July 20, 2021

Texas Education Code (TEC) [§22.0834](#) and [§22.08341](#) state that a contractor that provides services to a school district or charter school must be fingerprinted before beginning work, if the contractor 1) will have continuing duties related to the contracted services, and 2) will have the opportunity for direct contact with students. Additionally, the law requires that a contractor certify to a school district or charter school that it has received all criminal history information for its employees who provide services for the school. Pursuant to [§22.08341\(c\)](#), the requirement does not apply to a contractor that performs construction, alteration, or repair of an instructional facility if the contractor uses separate sanitary facilities, installs a barrier fence, and has a policy that employees may not interact with students or enter areas used by students.

### Fingerprinting and Registry for Schools

- [Annual Certification and Statement of Compliance](#)
- [Fingerprinting for Certification Applicants](#)
- [Fingerprinting Help Desk](#)
- [Registry of Persons Ineligible for Employment](#)
- [Requirements for Certified Educators and Non-Certified Employees](#)
- [Requirements for School District Contractors](#)
- [Requirements for Social Security Numbers](#)

# TEA Contractor Fingerprinting Guidance

- DPS has stated that school **contractors** may be granted access to fingerprint criminal history **if** they qualify for access under the National Child Protection Act (NCPA), specifically:
  - if the contractor provides “**care or care placement services**” and
  - is **based in Texas**
- These contractors may fingerprint their W-2 employees who have access to students
- These contractors can certify compliance with TEC §22.0834
- Schools will not have access to the same fingerprint results

# TEA Contractor Fingerprinting Guidance



- Otherwise, **school districts and charter schools must fingerprint** non-NCPA qualified **contractors** (and their employees) that have direct contact and continuing duties with students using the Local Education Entity (LEE) Fast Pass option
  - Schools will have access to the fingerprint results
  - Contractors will not be able to view the results
    - And therefore likely will not be able to complete the certifying requirements
- To request access to the DPS Secure Site FACT Clearinghouse: call 512-424-2474, Option 1

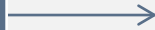
Does the contractor qualify for access under NCPA (provides "care or care placement services" and is based in Texas)?

YES: **Contractor** may fingerprint its W-2 employees who have access to students.

Contractor can certify compliance with TEC §22.0834. School will not have access to the same fingerprint results.

NO: **School district** must fingerprint contractor and its employees using the LEE Fast Pass option.

School will have access to the fingerprint results but contractor will not be able to view the results through the DPS Clearinghouse (and therefore cannot complete certifying requirements of statute).

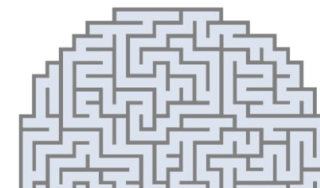
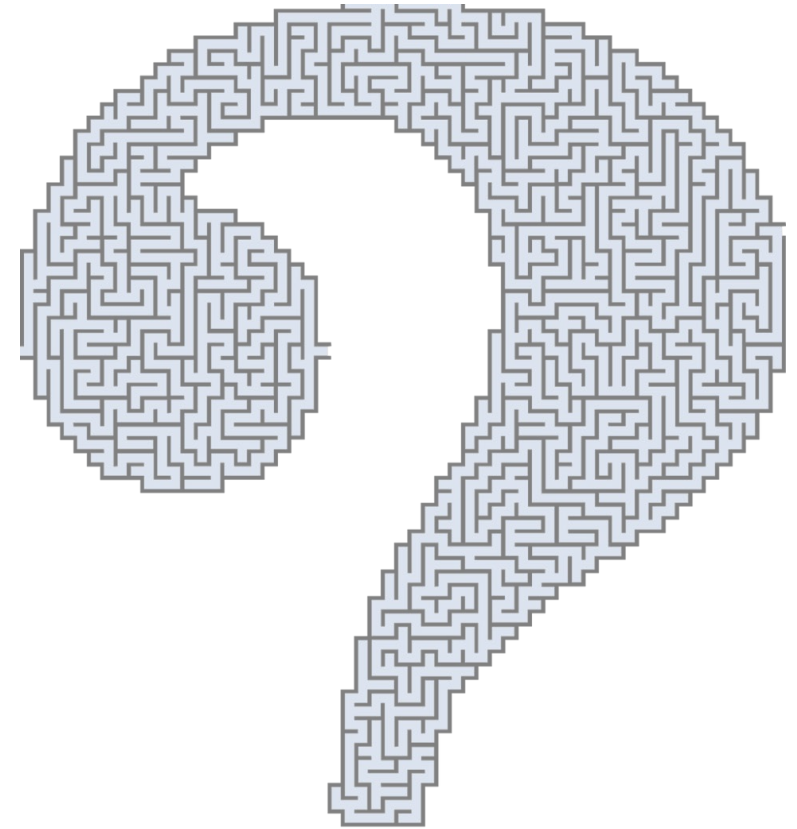


# One additional wrinkle...

- CHRI obtained from DPS is for the **exclusive use** of the authorized recipient and can **only be disclosed or used** to the extent authorized / directed by statute, rule, or court order.
  - This includes “the **identity** of a person about whom criminal history record information is requested and information that directly or indirectly indicates or implies **involvement of a person in the criminal justice system**”
  - “An agency or individual may not confirm the **existence or nonexistence of criminal history record information** to any person that is not eligible to receive the information”

# One additional wrinkle...

If school district fingerprints contractors/ their employees and learns that a contractor/ contractor's employee has a disqualifying criminal history...



# Practical considerations...

Who in your district is going to have access to contractors' criminal histories?

- HR already has access and knows the confidentiality rules (just sayin')

Who is going to pay for the fingerprinting cost?

- Require contractor to pay all fingerprinting costs? (duh)

# Resources

- Brief intro to getting "fast pass" process started with DPS:

<https://www.dps.texas.gov/sites/default/files/documents/securityreview/fastfactclrngghse.pdf>

- Example form of what districts will receive once they sign up for fast pass (note this is specific to Waco ISD and is not transferable – just an example!):

[https://www.wacoisd.org/site/handlers/filedownload.ashx?moduleinstanceid=4653&dataid=3938&FileName=LEE%20Generic%20Fast%20Pass%20\\_Waco%20ISD.pdf](https://www.wacoisd.org/site/handlers/filedownload.ashx?moduleinstanceid=4653&dataid=3938&FileName=LEE%20Generic%20Fast%20Pass%20_Waco%20ISD.pdf)

[https://www.wacoisd.org/site/handlers/filedownload.ashx?moduleinstanceid=4653&dataid=3938&FileName=LEE%20Generic%20Fast%20Pass%20\\_Waco%20ISD.pdf](https://www.wacoisd.org/site/handlers/filedownload.ashx?moduleinstanceid=4653&dataid=3938&FileName=LEE%20Generic%20Fast%20Pass%20_Waco%20ISD.pdf)

- Documents for proving identity for fingerprinting:

[https://www.dps.texas.gov/sites/default/files/documents/administration/crime\\_records/docs/provideforfingerprinting.pdf](https://www.dps.texas.gov/sites/default/files/documents/administration/crime_records/docs/provideforfingerprinting.pdf)

- General info about DPS FACT Clearinghouse:

[https://www.dps.texas.gov/sites/default/files/documents/administration/crime\\_records/docs/factclearinghousewebservices.pdf](https://www.dps.texas.gov/sites/default/files/documents/administration/crime_records/docs/factclearinghousewebservices.pdf)

- FACT Clearinghouse User Guide:

[https://www.dps.texas.gov/sites/default/files/documents/administration/crime\\_records/pages/factclrngghseusergde.pdf](https://www.dps.texas.gov/sites/default/files/documents/administration/crime_records/pages/factclrngghseusergde.pdf)





**Questions?**





Best wishes for waves of good fortune  
for the 2021-2022 school year!





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