



Capitol Update 3-23-23

Greetings from your Texas Capitol! Things have been busy in Austin these past two weeks with committee hearings starting and bill filing deadline, so I have much to share. Let's dive right into this edition of the update.



Presenting my former colleague and current Secretary of State, Jane Nelson, with a flag flown over the Capitol. Secretary Nelson was confirmed by the Senate on Wednesday, March 15th.

Update on New District Office in Arlington

As announced in my first Capitol Update from this session, with the changes from the redistricting process to Senate District 22, we will be opening an additional office in Arlington. The office will be located in the Arlington Highlands/ Parks Mall area, and we can start moving in on April 1st. Once we are moved in and up and running, we will give a final update to you with that office information.

Newly Authored Legislation

March 10th was the last day to file bills for the 88th Texas legislature. I filed a few final pieces of legislation on which I would like to update you:

SB 29 – COVID-19 Restrictions Ban: During the initial stages of the Covid-19 pandemic, local governments created a patchwork of regulations throughout the state that restricted the choices of Texans. The initial local restrictions included the implementation of mask mandates, shutting down of businesses and schools, and eventually vaccine mandates and requirements. However, Governor Abbott has routinely extended his Covid-19 Disaster Declaration to prevent local governments from re-implementing mask mandates, vaccine mandates, and the possibility of shutting down schools and businesses in the name of Covid-19 and any variants of the virus.

SB 29 would prohibit any state entity, state agency, or local governmental entity from implementing, ordering, or otherwise imposing a mandate, regardless of variant, that would:

- Require an individual to wear a facemask or face covering to prevent the spread of Covid-19.
- Require an individual to be vaccinated against Covid-19.
- Require the closure of a private business, school, open enrollment charter school, or private school to prevent the spread of Covid-19.

The bill has passed out of the State Affairs Committee and should be before the entire Senate next week.

SB 1419: Chapters 380 and 381 of the Local Government Code have been utilized frequently to promote economic development for the state and local communities. The broad authorization has led to creative and beneficial agreements, while leaving the door open to agreements with poor practices and little transparency. As such, there is room to improve taxpayer confidence and transparency and implement sensible guardrails to protect public dollars and the incentive programs themselves. This bill will require certain transparency measures, such as public meeting and notice requirements, as well as bifurcate the types of public revenue that can be utilized in particular economic development chapters to create clear and equitable distinctions for the purpose of each chapter.

SB 1420: The history of the local hotel occupancy tax dates to the 1960s, and the Tax Code has been amended many times over the decades. As language has been added to the Code, confusing and sometimes contradictory provisions have been inserted. SB 1420 clarifies and corrects those provisions. Additionally, this bill seeks to increase transparency for the collection and use of hotel occupancy taxes as well as the qualified hotel project program. Following discussions and recommendation from the 87th interim hearings of the Senate Natural Resources and Economic Development Committee, SB 1420 also addresses the significant increase in authorizations for the qualified hotel project program and concerns that unchecked growth of the program could lead to a deterioration of its intent and effectiveness. As such, the bill institutes a claw back provision to further ensure future projects are given the necessary consideration by local leaders to insure good stewardship of state revenue. Pleased to work with Rep. Doc Anderson on this legislation.

SB 1688: Qualified employees of participating companies in the Enterprise Zone Program are required to perform at least 50 percent of the business service at the qualified business site. Companies are required to annually certify that levels of employment are the same as when the company qualified for a refund or the company is subject to decreases in the tax refund. The bill would provide a waiver for companies who were unable to meet the 50 percent on-site requirement during the COVID period when government mandated closures caused many businesses to rely on off-site work. The Comptroller delayed enforcement on employment level certification requirements until the issue could be addressed by the Legislature, as this bill does so. Pleased to work with Rep. Angie Chen Button on this legislation.

SB 1689: The COVID-19 pandemic greatly increased the amount of people seeking unemployment benefits. Also, additional federal funds were given to individuals receiving benefits, including independent contractors that normally would not be eligible for unemployment benefits. The increased traffic and cash flow put significant pressure on the integrity of the Texas Workforce Commission's (TWC) unemployment system. To improve the integrity of the unemployment insurance system and to combat fraudsters that became more prevalent during the COVID-19 pandemic, this bill will: 1) Prevent an individual from filing a new initial claim for unemployment benefits until any previous fraudulent overpayments and penalties have been repaid to TWC, and 2) refine a provision in the labor code related to a person's last job to close a loop-hole fraudsters and imposters were exploiting to receive unemployment benefits which they did not earn.

SB 1893: The mobile application TikTok is owned by the Chinese company ByteDance who employs members of the Chinese Communist Party and has a subsidiary partially owned by the Chinese Communist Party. Currently, there are more than 85 million TikTok users in the United States. TikTok harvests vast amounts of data from its users' devices—including when, where, and how they conduct Internet activity—and offers this plethora of potentially sensitive information to the Chinese government. While TikTok has said that it stores U.S. data within the U.S., the company admitted in a letter to Congress that China-based employees can have access to U.S. data. SB 1893 requires Texas governmental entities to adopt a policy prohibiting the installation or use of prohibited application – specifically TikTok or any other application owned or developed by ByteDance Limited - on any device owned or leased by the governmental entity.

SB 1894: Transporting steel products presents a unique challenge because of its non-divisible attributes. Accordingly, steel manufacturers are unable to approach the size and weight limits with any proximity, forcing them to haul their product well underweight. This results in a higher frequency of trips to haul the complete shipment. SB 1894 addresses the inefficiencies of steel and iron transport by providing for the oversize and overweight permitting of vehicles carrying these types of products. Pleased to work with Rep. JM Lozano on this legislation.

SB 1895: Junior Reserve Officer Training Corps (JROTC) and Leadership Officer Training Corps (LOT) programs are not currently indicators used to evaluate the college, career, and military readiness of students in public high schools. SB 1895 makes successful completion of JROTC and LOTC programs an indicator of military readiness, creating parity in the Education Code between those programs and the Armed Services Vocational Aptitude Battery (ASVAB) test and enlistment in the armed forces of the United States or the Texas National Guard. This important change recognizes and codifies the degree to which JROTC and LOTC programs prepare students for life after high school graduation. Pleased to work with Rep. Steve Allison on this legislation.

SB 1896: Under current law, if an inmate dies while in custody, an outside agency is required to investigate. There are two exemptions to this requirement including if it was a result of natural causes or a lawful execution. There are instances, however, when an inmate's death does not indicate wrongdoing or fall within these exemptions, such as if an inmate passes away from cancer. SB 1896 would reform these regulations to ensure that these types of deaths that do not indicate wrongdoing do not require a full criminal investigation by the Texas Rangers.

SB 1897: When a self-storage unit is foreclosed, the owner of the storage facility normally auctions off the storage unit. Currently, there is overburdensome regulation on posting notices for the auction. The storage facility, in addition to sending a certified notice of foreclosure to the storage unit renter, must publish an ad in a local newspaper or publicly post notices at locations around the storage facility if there is no local newspaper. Most storage units are also posting these auctions online, and receive a large majority of their bidders through online sites. Requiring the storage facilities to pay for an ad in their local paper is an unfunded government mandate, and Senate Bill 1897 fixes this issue. This bill would remove the requirement for the storage facilities to post the notice of the auction in the paper, and allow the facilities to post the sale online or in another reasonable manor. Pleased to work with Rep. Stan Lambert on this legislation.

SB 1898: Transportation of sick or injured patients by EMS professionals in an ambulance is always preferred to transportation by other first responders; however, in some instances ambulances are not available in time-sensitive circumstances. SB 1898 statutorily authorizes firefighters to transport sick or injured patients in an emergency, and it also immunizes firefighters from liability if they transport a patient to the hospital when an ambulance is unavailable to do so. The goal is to transport sick and injured patients to hospitals as soon as possible while protecting firefighters who act in good faith to save patients' lives. Pleased to work with Rep. Cody Harris on this legislation.

SB 1899: Last session, I passed HB 1758 that required each state or local law enforcement agency that plans to use drones in the field to submit a written drone policy to the Texas Commission on Law Enforcement. These policies would provide the law enforcement agency's rules of engagement and detail when the use of force by drone is authorized. The bill provided the legislature an accurate depiction on how drones are used from one law enforcement jurisdiction to the next, but the policies varied across each entity and creates ambiguity as what is justifiable use of force. SB 1899 defines the justification of deadly force used by a drone if it is necessary to protect from threat or imminent death and has been approved by the head of the law enforcement agency. Pleased to work with Rep. Eddie Morales on this legislation.

SB 1900: The growing national fentanyl crisis continues to take the lives of Americans as Mexican drug cartels disguise fentanyl as counterfeit pills and find new ways to smuggle humans and drugs across our border. As a result, in September 2022, Governor Abbott issued an executive order designating Mexican cartels as terrorist organizations. SB 1900 would add foreign terrorist organizations to the organized crime designation and create new criminal offenses relating to their operations. In addition, law enforcement agencies will be able to build stronger cases against them with access to more resources and the addition of foreign terrorist organizations to intelligence databases. Pleased to work with Rep. Ryan Guillen on this legislation.

SB 1901: SB 1901 allows the Public Utility Council (PUC) to continue to retain any outside consultant, accountant, auditor, engineer, or attorney the commission considers necessary to represent the commission in a proceeding before the Federal Energy Regulatory Commission (FERC) for another eight years. This bill is a contingency plan for the PUC's Sunset bill. The need for this bill is that even if the Governor calls the Legislature back to address a potential failed PUC Sunset bill, the Sunset date of September 1, 2023 could leave the State in trouble for any current or impending proceedings dealing with FERC. Pleased to work with Rep. Justin Holland on this legislation.

SB 1902: In 2019, the Legislature tasked the Regulatory Compliance Division of the Office of the Governor with reviewing the rules proposed by active market-participant controlled agencies which may affect market competition. The Division was tasked with completing their review by January 1, 2024. However, many agencies are behind on their quadrennial rule reviews due to COVID-19. SB 1902 extends the sunset date on the division's review process by another four years to January 1, 2028. This extension is necessary because the division's rule process helps preserve federal antitrust immunity for the state's active market participant-controlled boards when a rule affects market competition, and it provides important protections for Texas consumers, current license holders, and those who may become licensed. Pleased to work with Rep. JM Lozano on this legislation.

SB 2097: The Texas Local Government Code Sect. 43.071 outlines several parameters on annexation into a water district. One of those parameters is that the property must be less than 525 feet. This law placed into effect in 1989 when forced annexation was a legal practice to ensure that large swaths of property could not be forcibly annexed. Somervell County is unique in principal that the Somervell County Water District has the operational purview to service the entire county. Typically a water district has an established boundary that does not necessarily cover the entire county. The 525 foot rule has made it difficult for the City of Glen Rose to expand to address that growth that the city has experienced. SB 2097 amends the government code to allow a municipality with a population under 3,000 to annex property that is in an area within a water or sewer district service territory as long as the governing body of said district consents to the annexation. Pleased to work with Rep. DeWayne Burns on this legislation.

SB 2098: Senate Bill 2098 gives the Hood County Commissioner's Court oversight over all Emergency Service Districts (ESD) that are wholly inside of Hood County. This gives more direct control of the ESDs to elected officials who answer to voters. The Commissioner Court's oversight includes the ability to establish policies and procedures for the ESDs' purchases of property or equipment/goods/services and providing services for a volunteer fire department. The ESD is also mandated to draft an annual budget with the recommended tax rate, calculations, and notices to submit to the Commissioner's court for approval. Pleased to work with Rep. Shelby Slawson on this legislation.

SB 2424: Throughout our Border Security Committee interim hearings, border region landowners and residents testified that they no longer feel safe in their homes or on their land. Since January 2021, residents and local businesses in the border region have witnessed firsthand the devastation and destruction as a result of the federal government's unwillingness to secure our southern border. The impact of this has advanced beyond the border counties and are impacting communities all throughout Texas, and the Nation. There is no greater responsibility in government than to lawfully provide safety and security of the citizens it serves. This proposed legislation would create a new state misdemeanor crime of improper entry from a foreign nation. Under this bill, state law enforcement officers would have the authority to arrest and prosecute individuals for illegally entering the State of Texas. Multiple improper entry violations are punishable as a felony.

SJR 81: SJR 81 establishes a constitutionally dedicated, permanent endowment to fund the capital infrastructure needs of career and technical education programs offered by the Texas State Technical College System (TSTC). TSTC historically has no consistently adequate capital funding to allow for strategic growth in current or new campuses. With the record growth of employment rates in Texas, the skilled-labor shortage also continues to grow. TSTC has a long history of proven performance in training highly skilled workers. This is why a large group of associations and businesses have been pushing for the expansion of TSTC into the fastest growing regions of Texas for access to training facilities that produce the skilled workforce needed. SJR 81 creates a reliable source of capital funding for TSTC to expand technical training in order to meet the growing skills gap in Texas and place more Texans in great-paying jobs. I wish to thank Lt. Gov. Patrick for his leadership to make this happen.

Joint-Authored & Co-Authored Bills

As always, I welcome the opportunity to lend my signature and support to colleagues who are filing quality legislation as a Joint Author, such as:

- **[SB 3/ SJR 3](#)** (Bettencourt) – SB 3 and SJR 3 would provide voters the option to vote to increase the homestead exemption amount from \$40,000 to \$70,000. SJR 3 does contain a temporary provision, which permits the increase to \$70,000 for the 2023 tax year, if approved in November 2023 the exemption will become the permanent increase in the constitutional homestead exemption amount going forward as of January 1, 2024. Included in SB 3 is a hold harmless to school districts—the state will make up any formula funding deficit a school district might incur as a result of this exemption increase.

SB 3 also contains a provision to provide the full amount of the \$40,000 homestead exemption increase to Over 65/Disabled exemption holders who did not receive the full benefit from SJR 2 and SB 1 that was approved by voters in May 2022. Additionally, SB 3 contains language that if a future legislature increases the homestead exemption, Over 65/Disabled exemption holders will automatically benefit from the increased exemption amount. This provision will eliminate the need to have a separate constitutional amendment every time the exemption amount is increased for Over 65/Disabled exemption holders.

- **[SB 10](#)** (Huffman) – SB 10 would provide a one-time additional payment to eligible TRS retirees who are at least 75 years old. Additionally, it would provide for a cost-of-living adjustment to eligible retirees who retired prior to December 31, 2021.

With this bill, the State of Texas plans to pay for the entire cost of this benefit package upfront. Therefore, TRS active members will not be asked to contribute more of their paychecks. Furthermore, this package does not negatively impact the pension fund in any form.

- **[SB 468](#)** (Kolkhorst) – This bill seeks to address homeowners associations and property owners associations limiting or prohibiting property owners from assembling in common areas inside the community. There has been a recent uptick in policies enacted by homeowner associations and property owner associations around the State in limiting the ability of property owners to assemble and organize.
- **[SB 1817](#)** (Bettencourt) – On February 4, 2022, the Russian Federation invaded Ukraine. In response, on March 4, 2022, all 31 Senators of the Texas Senate signed on to a letter requesting the State's Comptroller to prepare and maintain a list of all companies that invest in the Russian Federation. SB 1817 would ensure that the State of Texas joins the other states from around the country in divesting from Russia. The bill would ban any form of commerce in the Russian Federation, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce would be banned.

In addition to the bills listed above, I have signed on as a Co-Author to several pieces of legislation:

- **[SB 506](#)** (Perry) — SB 506 states that unless the authority has been explicitly granted to a state agency by the legislature, a state agency may not adopt a rule that requires a person to pay a fee or a tax if: 1. the rule authorizes the imposition of a fee or a tax on an item, service, privilege, or transaction that, at the time the agency proposes to adopt the rule, is not subject to the fee or tax; and 2. the agency has not previously interpreted the statutory or other authority under which the rule is proposed to be adopted to authorize the agency to impose the fee or tax on the applicable item, service, privilege, or transaction.
- **[SB 559](#)** (Hughes) — This bill is a preemptive action to address the growing attack on freedom of speech and expression of religious beliefs. This bill seeks to ensure that no attorney is excluded from seeking a law license or renewal of a law license based on their religious faith and that no person loses their law license based on their religious faith.

- **SB 1290** (Perry) — Senator Charles Perry and I have been working on this bill that will task the Texas Commission on Environmental Quality (TCEQ) to lead a consortium of several state agencies to study the environmental issues which solar farms, wind turbines, and battery storage will have on the state. SB 1290 as filed directs the TCEQ - in conjunction with Texas A&M AgriLife, Texas Department of Agriculture (TDA), Texas A&M Forest Service, river authorities, and groundwater conservation districts -to study the effects of the operation and disposal of solar, wind turbine, and energy storage equipment on the environment and watersheds.



Was happy to have Pastor Steven Schulte from East Side Baptist Church in Comanche as the “Pastor of the Day” in the Senate last week.

Senate Passes SB 2 (Hughes), Restoring the Felony Penalty for Illegal Voting

As my colleague Senator Hughes said, in Texas, we’re making it easy to vote and hard to cheat. Last week the Senate passed the first of the Lt. Governor’s priority bills. SB 2 returns the penalty for illegal voting from a misdemeanor to a second degree felony.

During the 2nd Session of the 87th Legislature, the House amended SB 1 to change illegal voting from a second degree felony to a Class A misdemeanor. Illegal voting has been a felony for almost 50 years. Due to the severity of the offense, the penalty should be restored to a felony. While it still needs to pass the House of Representatives and be signed by the Governor, this is an important step in making sure we have safe and secure elections in Texas.

Senate Passes SB 30 (Huffman), the 2024-2025 Biennium Supplemental Budget

The Senate has been hard at work getting bills through the Senate and sending them to the House for their consideration. Among these was the Supplemental Budget bill, SB 30. The Supplemental appropriations totaled just over \$11.85 billion dollars and stays \$5.6 million under the spending cap.

Some of the Highlights from SB 30 include:

- \$3.9 billion to pay the aggregate in customer rate relief charges on behalf of gas and/or electric utility customers in lieu of monthly charges to customers to assist with recovery from the effects of Winter Storm Uri.
- \$1 billion to TRS for a onetime legacy payment to TRS retirees.
- \$600 million to assist school districts in implementing school safety initiatives.
- \$400 million for flood mitigation.
- \$243.8 million to fully fund the remaining Texas Guaranteed Tuition Plan obligations.
- \$146.1 million in Federal funds to Texas A&M Forest Service for natural disaster response.
- \$141.8 million to the Texas Department of Criminal Justice to fill a shortfall in correctional managed healthcare.

The Supplemental budget is in addition to the State budget which I provided highlights to the Senate’s proposal in my last Capitol update.



Thursday, March 16th was Hill County Day at the Capitol. I was able to present a resolution on the Senate floor and got to see several of those who attended the Senate session that day.

One last personal thought. My sincere thanks to all those who contacted me and my office on the passing of my mother to her eternal home with the Lord.

As always, I want to thank you again for reading this update from 'Team Birdwell.' I hope you found it informative and that you'll share it with your friends, family, and colleagues in Senate District 22, who may subscribe to the Capitol Update [by clicking here](#). If you missed any of my previous Capitol Updates and want to read them too, you can find them [here](#)!

God bless,

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