



THE LEAGUE
OF WOMEN VOTERS® OF TEXAS



Legislative Newsletter

A “capitol” idea for keeping up with the latest news from Austin.

May 1, 2009

81st Texas Legislature

Volume 20, No. 8

Mary Finch, Advocacy Vice President

Scherel Carver, Editor

May is here and the Legislative Newsletter is now being sent out each week except the week following Memorial Day. The last two newsletters will be June 5 and the final wrap-up edition a week after June 21, the Governor’s last chance to sign bills from this session.

Senator Wentworth’s redistricting bill, [SB 315](#), failed again to pass the Senate. The bill is still held on the daily Regular Order of Business Calendar. See more under “Redistricting.”

Check out [SBI098](#) under “Reproductive Choice/Women’s Health.” If you oppose this bill, call and let your senator know.

Many bills have been left in committee. If you are supportive of one of these bills, call or email your representative **NOW** and ask them to “vote the bill out of committee.”

Under State/Local Relations read more about Representative Rose’s [HB 3265](#) concerning county authority. LWV-TX has an Action Alert out on this bill.

Progress of Bills in the 81st Texas Legislature Deemed a Priority by LWV-Texas

Government

EDUCATION/PUBLIC SCHOOL FINANCE Nan Clayton (Austin) nanclayton@yahoo.com

Education

During the past two weeks, the League focused on two education issues at the Legislature: reform of both the accountability system and the public school finance system.

Bills on the State Accountability System

SB 3 Leaguers attended Senate Education Committee hearings on April 16 and 21 to get new information on Senator Florence Shapiro’s Education Committee substitute to **SB 3**. Testimony and cards were not taken either day. At 138 pages on April 16, the bill involves changes to the accountability system, the curriculum, and promotion requirements. The bill would recognize student growth in achievement and would introduce a three-year rolling average in student progress.

Sen. Shapiro explained new provisions in the substitute bill that had been suggested and incorporated since the bill’s

last hearing. They reflected input from stakeholders and from Senators Kirk Watson and Wendy Davis, who had filed bills to provide relief for chronically low-performing campuses with Unsatisfactory ratings, where sanctions could lead to closure. Ratings are largely based on student performance on the Texas Assessment of Knowledge and Skills (TAKS).

Concerning sanctions, SB 3 would add an additional year between reconstitution and closure, require that campus improvement plans be more targeted, drop the name-change requirement for the campus, require that the Texas Education Agency (TEA) release ratings for low-performing campuses at an earlier date (June 15), and would take effect immediately. Campus accreditation would be based on a percentage of students that meet a passing standard and a college readiness standard, either

during the current school year, or on a three-year rolling average.

The bill places emphasis on college readiness with an expectation that students will be prepared to begin postsecondary studies without the need for remedial courses. "College readiness" is defined as English III and Algebra II; later, science and social studies will be included. Adding college readiness to the accountability standards will add an additional 10 indicators to the 36 indicators now used in the accountability system. The bill requires students to meet the passing standard on two of three end-of-course exams (EOCs) in each subject area, or meet a college readiness score on the English III and Algebra II EOCs. It adds a provision that would allow scores on AP, ACT, or SAT to substitute for certain EOCs.

In addition, the bill adds back the Grade Placement Committee required only for students at grades 3, 5, and 8 who fail a TAKS test. It adds progress of "socially promoted" students to the accreditation tier; gives the commissioner the opportunity to exclude court-ordered GEDs and students previously reported as dropouts from the dropout- and completion-rate calculations. The bill reverts back to the original graduation plans of Minimum (which will be more difficult to select), Recommended, and Advanced, but with a plan for four years of English, math, science, and social studies, plus eight electives (parent/student/district choice), and two years of the same foreign language.

More changes to the committee substitute of SB 3 were announced at the April 21 Senate Education Committee hearing. The bill was then voted out of committee and sent to the Senate floor. [HB 3](#), a nearly identical bill from Representative Rob Eissler, was passed out of the House Public Education Committee and sent to the House floor.

The League will continue to monitor SB 3 and HB 3. These bills offer improvements over the current accountability system, particularly by providing some flexibility in the way low-performing schools are sanctioned.

However, the bills still haven't measured up to League positions. The League supports the use of testing and the accountability system as diagnostic tools to help schools improve learning and performance, but not the punitive and unfair sanctions that allow schools to be closed, and principals and teachers to lose their jobs.

Public School Finance

The League went on record during committee hearings to support several bills that would address public school

funding, including companion bills [SB 982/HB 1555](#) by Sen. Leticia Van de Putte and Rep. Dianne Patrick. (The League went on record in support of [HB 1555](#) separately in the House Public Education Committee.) The bills would restructure the public school finance system by reinstating formulas for funding. Testimony from a broad spectrum of the education community indicated that this approach would be the ideal way to distribute funds according to the diverse needs of large, small, urban, and rural school districts. While the plan is considered the most equitable, it is also the most expensive. The bill would require rising levels of state aid over the years because it recognizes inflation and growth in student populations.

Another school finance bill, [SB 2392](#) by Florence Shapiro, gained a League card of **SUPPORT**. The bill would provide a two-year increase in public school funding and improve equity. However, it would not guarantee future state aid or an increase in local capacity after 2011. The bill calls for a study of school-finance formulas that would be used as the foundation for more legislative changes in 2011.

The League went on record in **SUPPORT** of [SB 2430](#) by Wendy Davis. It modifies the required tax rate elections for school districts.

[HB 3646](#) by Rep. Scott Hochberg earned a card of **SUPPORT** from the League. The bill would update a number of obsolete funding provisions that cause school districts to recover less aid from the state.

Update on Charter Bill

A substitute to SB 1830 by Sen. Dan Patrick to expand charter schools in Texas was sent to the full Senate for action. The original bill would have repealed the limit of 215 charter schools allowed under current law. Committee changes would set a new cap of 20 new charter schools a year; as many as 20% could be for special education. The substitute would allow any charter holder to add new campuses if 90 percent of its existing campuses have been at least academically acceptable for two years. The new campus would be automatically approved unless the Commissioner of Education exercises a veto within 90 days. There are concerns about the proliferation of charter schools because they are held to more lax standards than traditional public schools. Many have a history of poor supervision and academic performance; and they require more tax money for state monitoring and oversight.

ELECTION LAWS Barbara Weinstein (Dallas) gewwendt@swbell.net

**Bills on House Elections Committee Agenda
4/27/09 on which we took action.**

[HB 247](#)(Alonzo) **SIGN IN SUPPORT** Relating to allowing certain early voting polling places to serve as election day polling places.

[HB 249](#)(Alonzo) SIGN IN SUPPORT Relating to the procedures for registering to vote at the time of applying for a driver's license or personal identification card.

[HB 452](#)(Allen) SIGN IN SUPPORT Relating to early voting by mail by any qualified voter.

[HB 820](#)(Ortiz,Jr./etal) NEUTRAL Relating to certain ballot access requirements.

[HB 3290](#)(Chisum) SIGN IN SUPPORT Relating to the acceptance of a voter for voting.

[HB 4420](#)(Dunnam) SIGN IN SUPPORT Relating to certain reports related to the cancellation of voter registrations.

[HB 3046](#)(Farias) SIGN IN SUPPORT Relating to the correction of voter registration records following a

change of address submitted to the United States Postal Service.

[HB 4392](#)(Farias) SIGN IN SUPPORT Relating to an electronic means for voters to determine the status of ballots submitted by mail.

[HB 1927](#)(Farias) SIGN IN SUPPORT Relating to Voter Education Week.

NO CHANGE on the following:

[HB 373](#) (Anderson/Flynn)

[HB 638](#) (Leibowitz)

[HB513](#) (Vo)

[HB536](#)(Anchia/etal)

[HB551](#)(Madden

[HB1103](#)(Guillen)

FINANCING STATE GOVERNMENT Bonnie Leitch (New Braunfels) bleitch@earthlink.net

Both the Senate and the House voted to accept the \$555 million in federal unemployment benefits. The House even added an amendment to its budget that authorizes using money from the Texas Enterprise Fund, which Governor Perry uses to lure businesses to the state, to pay for unemployment benefits if Perry does not accept the federal bailout money. Both versions go to conference in a

race to get a budget to the governor before the session ends, to prevent a pocket veto.

[SB 217](#) appears stalled in committee. It looks as if the two reform bills that made property taxes fair and realistic and tied the gas tax to a market rate will have to wait another two years.

CAMPAIGN FINANCE REFORM Maxine Barkan (Austin Area) mbarkan@austin.rr.com

Campaign finance reform does not seem to have a strong focus so far this session. There have been a number of minor bills that would tighten current laws, but nothing major seems to have captured the imagination.

For example, **[HB 105](#) (Strama) SUPPORT**, The Texas Campaign Fairness Act, that would provide contribution limits for statewide elected offices, including members of the State Board of Education, but excluding judges, has not yet been heard by the Elections Committee. Neither the Elections Committee nor Rep. Strama's office could answer why it had not been scheduled. However, they said they would contact me when they had information, but that has not happened.

At the April 15 Elections Committee hearing, the League signed in favor of **[HB 756](#) (Martinez Fischer) SUPPORT** and **[HB 1359](#) (Anchia) SUPPORT**, a similar bill to that of Martinez Fischer that would prohibit making or accepting political contributions in a state building. Both were reported out of committee as substituted.

[HB 4060](#) (T. Smith) SUPPORT Reported in an earlier LNL, in which a judicial candidate may not accept

contributions after the 120th day following a general election even though there is no opponent. Was voted out of committee and sent to the Local and Consent Calendar.

[HB 3216](#) and **[HB 3218](#) (Naishtat)** and **[HB 1997](#) (McCall)** Prohibiting the acceptance of political contributions before a special session of the Legislature has been sent to the Local and Consent Calendar.

Left pending is **[HB 2511](#) (Smith of Tarrant) SUPPORT** Would add a section to Chapter 253 of the Election Code requiring the Texas Ethics Commission to do a study regarding limits on contributions and expenditures on behalf of candidates, officeholders, and political committees concerning legislative and executive offices. The study would include a survey of the various states that have such limits to determine what effect the limits have. Recommendations to the legislature must be made no later than January 1, 2011. The Ethics Commission has always had the power to recommend campaign contributions and expenditures but has not done so.

REDISTRICTING Elaine Talariski (San Antonio) etalariski@earthlink.net

SB 315 (Wentworth) SUPPORT On April 24, 2009 A motion to suspend regular order (requiring a 2/3rds vote) failed. The vote taken under the 2/3rds rule failed again on second reading of the bill.

HB 104 (Strama) and HJR 90 (Strama) SUPPORT Testimony was heard April 16,2009. Bills are still pending in committee.

HJR 90 (Pena) SUPPORT No action

HJR (Ritter) SUPPORT No action

REPRODUCTIVE CHOICE/WOMEN'S HEALTH Julie Lowenberg (Dallas) jmlowenberg@sbcglobal.net

SB 592 (Van De Putte) SUPPORT On April 14 SB592 was voted favorably out of the Senate Health and Human Services Committee, 7-0, with 2 members absent, and placed on the Intent Calendar but later removed - hopefully will be placed on again soon. As described in LNL #2 and LNL #7, the bill would allow an unmarried minor parent to consent to medical treatment and services related to contraception.

SB 1098 (Carona) OPPOSE, the Senate version of the "Choose Life" license plates bill described in LNL # 4, which was re-referred from the Transportation and Homeland Security Committee to the Health and Human Services Committee, was heard by that committee on April 21. LWV-TX signed in as opposing. On 4/22 it was reported favorably out of the committee and could be placed on the Intent Calendar at any time. **Contact your senator and ask her/him to vote against SB 1098 to prevent more government money going to unlicensed Crisis Pregnancy Centers that only provide coercive counseling, not unbiased health care.**

On 4/21 the Senate State Affairs Committee heard both **HB 36 (Corte) OPPOSE**, the House version of the ultrasound requirement bill described in LNL #1, and **HB 3796 (Morrison) OPPOSE**, described in LNL # 5, that, under the guise of protecting women from coerced abortions, would actually impose new "voluntary" (in addition to the already required "informed") consent requirement burdens on women seeking abortions and their physicians. LWV-TX filed testimony against HB 36 and signed in as opposing HB 3796. Thanks to Alison Dieter of the Capitol Corps for being the LWV "presence" at the hearing. Both bills were left pending in committee for the time being.

Two bills that have recently come to our attention had a hearing on April 28 in the Senate Health and Human Services Committee:

- **SB 591 (Van de Putte) SUPPORT** Would create a pilot program in Bexar County to serve up to 75 youth with the Teen Outreach Program (TOP). TOP is a teen pregnancy prevention program that has also been shown to reduce school dropouts.
- **SB 594 (Van de Putte) SUPPORT** Would require the Health and Human Services Commission to increase

outreach for the Women's Health Program (WHP), which currently reaches only about 4% of eligible women with checkups and birth control. Women 18-44 are eligible for WHP if they would be covered by Medicaid for a pregnancy. This bill would also require improvement to the transition from Medicaid to WHP after delivery. Currently, when Medicaid ends at 60 days postpartum, women lose coverage and are at risk for early repeat pregnancy.

HB 741 (Castro) SUPPORT, The Education Works measure described in LNL # 2 remains in the House Public Education Committee after a very well-received hearing noted in LNL #7. The Committee Chair Rob Eissler (R-The Woodlands) and two other Republicans on the Committee, Reps. Diane Patrick (Arlington) and Mark Shelton (Fort Worth), need encouragement from their constituents to vote "yes." Thanks to the Arlington, Montgomery County, and Tarrant County Leagues for generating calls to these key Committee members.

We are pleased to report that the House version of the state budget was passed without amendments that would have jeopardized **Family Planning Funds**. As reported in LNL #6, the Senate version also passed without threatened amendments that would have diverted federal family planning funds away from women's health clinics such as Planned Parenthood. Next, a Conference Committee will review the two budgets and arrive at a final recommended budget to be voted on by both chambers. Harmful amendments could still be inserted at some point(s) during this process. **We need to keep pressure on legislators to oppose budget measures that would deprive thousands of low-income Texas women of preventive health care.**

No new actions have been taken on the following previously reported bills: **HB 44 (Corte) OPPOSE; HB 109 (Phillips) OPPOSE; HB 680 (Farrar) SUPPORT; HB 684 (Farrar) SUPPORT; HB 891 (Villarreal) SUPPORT; HB 893 (Villarreal) SUPPORT; HB 1371 (Rodriguez) SUPPORT; HB 1567 (Villarreal) SUPPORT; SB 1694 (Strama) SUPPORT; HB 2221 (Farrar) SUPPORT; HB 2592 (Thompson) OPPOSE; HB 2968 (Coleman) SUPPORT; HB 3152 (Christian) OPPOSE; SB 182 (Patrick) OPPOSE; SB 515 (Ellis) SUPPORT; SB 593 (Van de Putte) SUPPORT; SB 1076 (Van de Putte) SUPPORT; SB 1100 (Watson) SUPPORT.**

TEXAS CONSTITUTIONAL REVISION Sandy Ashby (The Woodlands) marieashby7@comcast.net

No action in this area.

STATE/LOCAL RELATIONS Karen Rankin (Austin) karenrankin@austin.rr.com

County Authority

After a couple of busy weeks earlier this month, the bills we would most favor on this issue seem to be stalled.

In the House, **HB 4262 (Rodriguez) SUPPORT** and **HB 4175 (Bolton) SUPPORT** are still pending in the Land and Resource Management Committee. We are hopeful for action on the committee substitute to Rep. Bolton's bill. **HB 3265 (Rose) SUPPORT is still in the Calendars Committee despite League advocacy with committee members. Action alert was sent out on this bill from LWV-TX April 29. Please take action if you have not done so already.**

On the Senate side, the major bills **SB 578 (Wentworth) SUPPORT**, **SB 2097 (Wentworth)**

SUPPORT, SB 2202 (Wentworth) SUPPORT, SB 2451 (Wentworth) SUPPORT, SB 2452 (Wentworth) SUPPORT are still awaiting a hearing in the Intergovernmental Relations Committee. We are prepared to testify in favor of these bills when the committee hears them, with our strongest support for **SB 2451** which is the counterpart to **Bolton's HB 4175** and **SB 2452**, the counterpart to **Rose's HB 3265**.

SJR 47 (Lucio) WATCH The resolution is also awaiting a hearing in the same committee. This joint resolution would allow all Texas counties the option of approving authority for land-use regulation, which is probably broader than most counties want or need and would create confusion regarding current statutes.

Administration of Justice

CAPITAL PUNISHMENT

HJR 24 (Naishtat) SUPPORT no action, bill still in committee

HB 877 (Naishtat) SUPPORT Creating a commission to study Capital Punishment in Texas. Sent to Calendars Committee to be placed on the House Calendar.

CRIMINAL JUSTICE Susan Smith (Amarillo) tornado4@suddenlink.net

HB 788/ HB 3439 Were left pending in sub committees.

HB 498 Report was sent to the Calendars committee on April 20.

SB 1948 Passed the Senate and was referred to the House Corrections Committee on April 20.

DRUG LAWS AND POLICIES Elaine Talariski (San Antonio) etalariski@earthlink.net

SB 188 (Duell/Van de Putte) SUPPORT Bill is in the House. Being considered by the subcommittee in a work session.

HB 142 (McClendon/Crabb/Ortiz Jr./Naishtat) SUPPORT Bill similar to SB188 Being considered by the subcommittee in work session.

HB 272 (Ortiz) HB 3707(Coleman) SUPPORT Identical to HB 142 Action same as HB142.

JUVENILE JUSTICE Jayne Krawietz (Midland) jkrawietz@suddenlink.net

CSHB 3689 (McClendon) SUPPORT This original HB 3689, written to abolish the Texas Youth Commission and the Texas Juvenile Probation Commission, has this substitute bill, which leaves the two agencies separate, but establishes the Juvenile Justice Policy Coordinating Council to evaluate the operations of TJPC and TYC and make recommendations to those agencies concerning the provision and coordination of services and operations. This bill addresses many of the oversight concerns we have about TYC, as well as concerns about lack of

coordination of information and services between the two agencies. It also will allow the reforms of the previous session to continue.

Additional requirements under the bill are as follows:

- Requires the development of a comprehensive five-year Juvenile Justice Improvement Plan.
- Establishes a voluntary community corrections pilot program for lower-risk juvenile offenders.

- Adds to TJPC and TYC's Coordinated Strategic Plan processes for communicating information on the juvenile justice system between the agencies.
- Requires a memorandum of understanding establishing a continuity of care system for juvenile offenders with mental impairments.
- Requires TJPC to consider past performance when contracting with juvenile boards for local probation services.
- Requires regulation of nonsecure correctional facilities used only for youth on probation.
- Specifies that TJPC's minimum standards for juvenile probation facilities ensure various rights and benefits for juveniles.
- Requires TYC to give juvenile courts reports on, and access to, information on youths' progress while committed to TYC.
- Requires TYC to develop a plan to reduce recidivism and ensure successful reentry and reintegration of children into the community on their release.

This is pretty comprehensive, and deals with many of the issues that are of concern to League members. The Fiscal Notes indicate no impact to the state budget, indicating that the state will devote the same resources to juvenile justice as before. One of our concerns has been that the legislature might use a consolidation of agencies to cut their budgets.

JUDICIAL SELECTION Maxine Barkan (Austin Area) mbarkan@austin.rr.com

The good news and the not-so-good news. The good news is that at least three bills have been filed attempting to reform the way we select judges in Texas. According to our position, we can fully support one, **HB 3995 (Hunter) SUPPORT**, for which we provided oral and written testimony in the Judiciary & House Civil jurisprudence Committee. This bill would provide for a nonpartisan merit selection for the appellate court judges. As reported earlier, this bill was left pending in committee. It is still pending. That is the not-so-good news.

The other two bills we might have supported, except that they lack a nonpartisan focus. Our position (as reaffirmed in March of 2009) requires a nonpartisan approach to judicial selection.

(Note): the following bill was incorrectly numbered in the last in LNL #7. **HB 3146 (Anchia) NEUTRAL** would provide public financing for judicial candidates. The League does support public financing for **all** candidates running for office, but in this case, the judicial elections are still partisan. At this writing, the bill is pending in the Elections Committee.

SB 2226 and Constitutional Amendment **HJR 44 (Duncan) (NEUTRAL)** The League cannot fully support this bill because the primary election for judges would be partisan to fill vacant seats. Was voted favorably out of the State Affairs Committee. The League will continue to monitor these bills for any changes that we can support.

Support in the Media

Meanwhile, there has been a spate of publicity regarding the selection of judges. Energized by Chief Justice Wallace Jefferson's State of the Judiciary to the Legislature in which he issued strong support for a nonpartisan appointment/retention system to select judges, the *Austin American Statesman* published a lead editorial strongly endorsing the Chief Justice's statement and assigning a reporter to write a lead article in the news section of the paper. I was interviewed for the League on our position but was not included in the final article. **Note:** The article is included at end of this newsletter or may be accessed by [clicking here](#).

Social Policy/Human Resources

CHILD ABUSE & NEGLECT Carol Pino (Wimberley) cpino@hughes.net

Child Abuse Prevention Month did not appear to have much impact on the Texas Legislature. The House budget funds 85% percent of what Child Protective Services needs to keep children safe in their homes, with relatives, or successfully transition out of care. The Senate budget funds only 15%. If the Senate does not move the House budget forward, more children will be forced into the more expensive alternative of foster care and poorer outcomes for the most vulnerable children will result. This, at a time when caseworkers in Texas already have twice the number of cases to manage as the average nation-wide caseworker, is a travesty.

There has been very little movement for the bills previously mentioned. The only action was on **SB 89 (Van de Putte)/HB 639 (Thompson) SUPPORT** which is now on the Senate intent calendar and **SB 67 (Nelson) SUPPORT** which has been referred to the House Health and Human Services Committee.

SB 1646 (Van de Putte)/HB 3259 (Naishtat) WATCHING Left pending in the Senate Health and Human Services Committee.

SB 1411 (West)/HB 2860 (Dukes) WATCHING

recently began watching this bill, which would provide funds and training for kin care providers and support for adoption of children with special needs. When children are removed from their parents' care due to abuse or neglect, research shows that placing them with another family member can bring needed stability and is the safest,

most positive option for these children. However, some families lack the finances or training to care for children, particularly those with special needs. This bill would assist in keeping abused and neglected children with known family members. This bill is presently on the Senate intent calendar.

CHILD HEALTH CARE Susan Majors (Richardson) majorssusan@gmail.com

The House has adopted floor amendments to the budget bill that would have a positive effect for bills that could result in more of Texas' children receiving Medicaid. The budget bill now includes several riders that would provide funding, *but only if certain bills are passed*.

A successful budget amendment by Representative Lucio III would provide funds for a Medicaid buy-in for children with disabilities in families at up to 300% of the Federal Poverty Level (FPL). **SB 187 (Deuell) SUPPORT** and **HB 67 (Lucio III) SUPPORT** are similar bills that would establish the buy-in. On April 23, SB 187 passed with a near unanimous vote of the Senate. It has been received in the House. HB 67 has been placed on the calendar.

Two successful amendments by Representative Coleman and one by Representative Sylvester Turner would provide funds if the Legislature acts to extend eligibility for Children's Medicaid from 6 months to 12 months. While this is only a first step requiring some form of legislation to be passed, there is renewed momentum.

The League SUPPORTS any of the following bills that include 12-month eligibility in their provisions:

HB 584 (Dukes)
HB 647 (Dukes)
HB 843 (Martinez)
HB 1541 (Turner, Sylvester)
HB 2199 (Marquez)
HB 2204 (Gonzales)
HB 2962 (Coleman)
SB 23 (Zaffirini)
SB 349 (Shapleigh)
SB 1252 (Zaffirini)

The inclusion of the Children's Medicaid riders in the budget bill is an example of the effectiveness of combined advocacy efforts. There was a concerted push by the coalitions in which the League is a member. Professional advocates in the coalitions went the extra mile to bring the issues forward in a timely manner. There was a press conference and statewide media coverage. LWV-TX and many individual members were among those who wrote letters, made calls, and sent email messages. **It still will require additional work to move effective legislation forward.**

EARLY CHILDHOOD Marlene Lobberecht (Houston Area) marlene@lobberecht.com

A major enhancement to pre-k quality is facing resistance in the Texas legislature.

SB 21 (Zaffirini) SUPPORT had testimony taken more than a month ago in the Senate Education Committee. But the bill is still stuck in committee after another discussion April 23, with LWV-TX signing in support of the bill. SB 21 would create a program of full-day pre-kindergarten with state funding for districts that meet enhanced quality requirements, including full certification of pre-k teachers, class-size limits calling for a certified teacher and a paraprofessional for each class of up to 22 pupils, and a strong curriculum. However, Sen. Zaffirini was rebuffed April 23rd when she sought a vote on the bill in committee. Committee Chair Shapiro told Zaffirini bluntly "you don't have the votes," even after Sen. Zaffirini presented a substitute version of the bill trimming its costs.

Last week companion bill **HB 130 (Patrick) SUPPORT** did win approval in the House Public Education Committee, but **HB 130** was severely weakened by an amendment insisted upon by Committee Chair Eissler. His amendment in effect suspends the teacher certification requirement for the first three years under the new program, in order to enable private pre-k programs that lack certified teachers to qualify for the new funding available under this bill. LWV-TX provided oral and written testimony for **HB 130**.

SB 59 (Zaffirini) SUPPORT Reported favorably as substituted and sent to Calendars.

SB 67 (Nelson) SUPPORT Referred to House Human Services Committee.

SB 68 (Nelson) OPPOSE Oppose as amended as it creates a loophole for exemption from state regulation.

Referred to House & Human Services and scheduled for hearing April 30.

SB 90 (Van de Putte et al.) Was sent to the Governor.

SB 95 (Van de Putte et al.) & HB 217 (Menendez) SUPPORT Referred to Senate State Affairs; House calendar postponed until May 4.

SB 282 (Nelson) SUPPORT Passed Senate and received by House.

SB 1613 (Lucio) WATCHING Was scheduled in Health & Human Services for public hearing April 28.

SB 1730 (West) SUPPORT Reported favorably as substituted & recommended for local & uncontested calendar.

HB 136 (Villarreal) SUPPORT Recommended to House calendar and **SB 1032 (Van de Putte) SUPPORT** added a co-author.

HB 161 (Deshotel) SUPPORT Referred to Senate Economic Development Committee.

HB 1240 (Villarreal) SUPPORT Referred to Senate Health & Human Services Committee.

No bill movement on the following:

SB 49 (Zaffirini) SUPPORT

SB 81 (Nelson) SUPPORT

SB 122 (Ellis) & HB 3192 (Ortiz, Jr.) SUPPORT

SB 156 (Ellis) & companion HB 326 (Raymond) SUPPORT

SB 382 (Van de Putte et al.) & companion HB 429 (King, Susan) SUPPORT

SB 1349 (Van de Putte) & companion HB 2446 (Rose) SUPPORT

SB 1499 (Van de Putte) SUPPORT

HB 188 (Alonzo) SUPPORT

HB 275 (Rodriguez) SUPPORT

HB 316 (Raymond) SUPPORT

HB 326 (Raymond) SUPPORT

HB 1241 (Villarreal) SUPPORT

HB 1877 (Alvarado; Rios Ybarra) SUPPORT

HB 1891 (Madden; Eissler) OPPOSE

EQUAL OPPORTUNITY/INCOME ASSISTANCE Mildred Derrough Pope mderrpope@yahoo.com

HB 32 and HB 33 (Leibowitz) SUPPORT March 23 left pending in subcommittee. Companion bills relating to prohibiting discrimination against certain employees who sustain an injury in the course and scope of employment.

HB 34 (Leibowitz) SUPPORT April 14 left pending in committee. Relating to enforceability of certain contract between employer who does not have workers' compensation. Felt all three bills had great possibilities however HB 32 and 33 seemed to have lost momentum.

HB 248 (Alonzo) SUPPORT April 27 scheduled for public hearing. Relating to the protection of rights of Texas voters without regard to race, color ethnicity, or membership in a language minority group. Keep hope alive on this one.

HB 492 (Zerwas I et al) SUPPORT April 24 passed as amended Relating to the expansion of faith - and community-based health and human services and social services initiatives.

HB 522 (Giddings) SUPPORT Referred to Public Education Feb. 18. Relating to intensive preparation academies in certain school district to prepare public school students to take required end-of-course assessment instruments. Here's very much needed in most school districts but it seems to be in the deep freeze as many others.

Food assistance for needy

HB 612 (Naishtat et al) SUPPORT April 23 reported favorably as substituted Relating to the eligibility of certain persons for the food stamp program.

HB 697 (Zerwas) SUPPORT Feb. 18 referred to Defense & Veterans' Affairs Relating to study of feasibility of creating a job training program for certain individuals discharged from the Texas National Guard.

HB 785 (Rodriguez et al) SUPPORT Committee report sent to Calendars April 6. Relating to employment services for persons with disabilities.

HB 950 (Dutton) SUPPORT Scheduled for public hearing April 27. Relating to the modification or enforcement of a child support order during the obligor's confinement in jail or prison.

Energy assistance program

HB 1627 (Naishtat et al) 04/23/2009 H Reported favorably as substituted Relating to Low-Income Home Energy Assistance Program payments to assist certain households receiving food stamp benefits.

American Recovery & Reinvestment Act

HB 1637 (Turner, Chris et al) Sponsor: Ellis S Scheduled for public hearing on April 27. Relating to normal weekly hours of work under the shared work unemployment compensation program.

HEALTH CARE SYSTEM FOR OLDER TEXANS Maria Johnson (Austin Area) mmjohnson6@hotmail.com

The following bills are making progress:

HB 497 (Zerwas) SUPPORT Was sent to Calendars committee. It would require a state study by TDI and HHSC to determine the effect on the health care infrastructure if the state Medicaid program were abolished or if there were a severe reduction in federal matching money.

HB 802 (Davis, John) SUPPORT Still in Calendars.

HB 1453 (Naishtat) SUPPORT Sent to Calendars. This would require that long-term consumer care information be made available on the Internet in plain language for consumers. This bill is very clearly in line with one of the State League positions that access to health

care include in clear language state and local information and referral networks about publicly-funded health care programs and eligibility requirements.

HB 1081 (Herrero) SUPPORT Was sent to Calendars. Would post information on the DADS website monthly on the history of compliance with state regulations of nursing homes and other related institutions.

HB 2248 (Turner, Sylvester) SUPPORT Sent to Calendars. This bill provides for emergency plans for certain health care facilities in such situations as hurricane evacuations.

IMMIGRATION Millie Whittington (Houston Area) milliekbw@aol.com

There are six bills that deal with issuance of drivers licenses. Four are opposed and two supported by LWV-TX:

HB 1061 (Jackson) OPPOSE

HB 4036 (Merritt) OPPOSE

HB 4675 (Phillips) / SB 1784 (Carona) OPPOSE

These two are the same. Each of these bills requires documented proof of citizenship or legal presence in the US to get a drivers license. The bills would markedly increase the number of unlicensed and therefore uninsured drivers on Texas roads. They would take away the livelihood of undocumented immigrants with businesses that utilize vehicles, e.g. yard care and landscaping.

HB 1278 (McClendon) / SB 2261 (Zaffirini)

SUPPORT These two bills are the same. Initially (in Legislative Newsletter # 5), HB 1278 was opposed. But now, in view of the near certainty of restrictions to issuance of driver's licenses for undocumented immigrants, it is supported. This measure allows the use of an unexpired license for obtaining a renewal without requiring proof of legal presence in the US, a less draconian treatment of undocumented immigrants of long residency.

HB 260 (Berman) SUPPORT SB 1422 (Huffman)

SUPPORT These two bills are essentially the same. Would deny a sentence of community supervision (including deferred adjudication community supervision) for illegal aliens convicted of certain crimes. Illegal presence in the US does not merit probation following commission of a crime.

HB 4480 (Howard, C) OPPOSE Relating to certain school identification documents for employees and students. The bill effectively restricts employment and

enrollment in the Texas school system to legal residents of the US. It could engender an under-class of uneducated undocumented residents with negative impact on Texas society.

HB 4482 (Huffman) OPPOSE This bill restricts undocumented aliens from being considered residents of Texas for the purpose of receiving state educational benefits. The LWV Immigration position calls for all persons to receive "fair treatment", interpreted to mean "unbiased treatment."

HB 3360 (Villareal) / SB 1818 (Van de Putte)

SUPPORT These two bills are the same. Relating to the exemption from the administration of certain assessment instruments to students who are asylees or refugees. The LWV position on legally admitting persons to the US recognizes the special status of asylees and refugees.

HB 4132 (Chison) / SB 2026 (Watson) SUPPORT

These two bills are the same. Relating to the establishment and administration of the Essential Workers Program in collaboration with the federal government. This would provide a needed workforce in industries such as ranching, farming, food manufacturing, landscaping, and restaurant and hotel services. It would eliminate exploitation of undocumented workers.

HB 4486 (Howard) SUPPORT Relating to requiring all state governmental entities to use the federal work eligibility verification program to prevent unlawful hiring.

HB 1961 (Brown) OPPOSE Relating to financial housing assistance to US citizens only. It could invite perjury. Again, there is a question regarding the League's position that "All persons should receive fair treatment under the law." Read "fair" as non-discriminatory. For that reason, we might question would it be "fair" to change the law to so that the discrimination is therefore "under the law?" As the LWV, we should say no.

[HB 4425 \(Hernandez\) SUPPORT](#) Relating to authorizing a suit to declare that certain children have been abused, neglected, or abandoned.

[HB 4426 \(Hernandez\) SUPPORT](#) Relating to extending foster care coverage to certain children.

[HB 4485 \(Howard\) OPPOSE](#) Relating to amending the Code of Criminal Procedure to treat any defendant whose legal status in the US has not been established as being at risk of flight. Any judge or magistrate worthy of the position should be the decision maker regarding the giving or withholding of bail without such a crutch.

[SB 357 \(Patrick\) SUPPORT](#) Relating to the prohibition against the knowing employment of persons not lawfully present in the US and related penalties. The League's position on immigration says "The League supports: Significant fines and penalties for employers who hire unauthorized workers."

[HB 404 \(Harless\)/ SB 358 \(Patrick\) OPPOSE](#) These two bills are similar. Both involve local entity enforcement of federal law. SB 358 was opposed in Legislative Newsletter #3 and its companion bill is given here for completeness.

MEDICAID Lynda Ender (Dallas) LEnder@theseniorsource.org

House Budget – Medicaid \$\$\$\$ Of course, the Budget is all important when it comes to Medicaid. There are additional funds for Medicaid in the House Budget if legislation that would change the qualification requirement for Medicaid from every six months to once a year passes. Annual Medicaid applications will simplify the process for Texas families and give a quarter million children the opportunity to see a doctor. In addition, there is a rider to help Medicaid primary care providers by increasing their reimbursement rates to keep up with inflation. The House chose to do more to assist those with mental health illnesses, as they voted to expand funding for community mental health crises services and veteran's services, amongst others. The Budget now goes to Conference Committee.

[SB 7 Nelson NEUTRAL](#) **I encourage everyone to read this bill. It would take some discussion to decide if this is a bill to support due to the "paying based on quality of care and patient outcomes rather than number of services" part.** The Senate approved a measure that would move toward changing the way the state compensates doctors and hospitals that treat Medicaid patients. Senate Bill 7 by Jane Nelson, R-Flower Mound, emphasizes paying based on quality of care and patient outcomes rather than number of services. It does that by authorizing a quality-based payment pilot program, giving performance-based incentives to nursing homes, and gathering information from hospitals that would be used to study payment changes.

The proposal also:

- Starts a pilot program designed to reduce obesity among patients in Medicaid and the Children's Health Insurance Program (CHIP).
 - Requires the state to create electronic health records for Medicaid and CHIP recipients.
 - Prohibits or reduces Medicaid payments for so-called "never events" such as surgery performed on the wrong body part.
- This is one of the more interesting bills this session. The measure now goes to the House.

[SB 78 Nelson SUPPORT](#) This bill has passed the Senate and is in the House Insurance Committee. There will be a public hearing on April 28. If it passes, it would provide education on the importance of insurance to the general public including high school students and provide materials about the various insurance products and have a hot line to answer questions.

[SB 286 Nelson SUPPORT](#) Last report, I said this bill has momentum. Well the momentum continues. It has passed the Senate, had a public hearing in the House Public Health Committee, was reported favorably and will be sent to Calendars Committee. It would encourage electronic records and the issuance of a Medicaid passport, so when people move within or out of the state, their records can be accessed by new health care providers. This will be great for frail elderly moving to live with relatives or into facilities, foster children, etc.

[HB 1081 Herrero SUPPORT](#) The bill would require the posting of certain information regarding nursing homes and related institutions on the Department of Aging and Disability Services website. It has passed out of the House and has been assigned to the Health & Human Services Committee.

[SB 288 Nelson SUPPORT](#) This bill mandates that physicians or other health care providers before providing an acute care service or procedure to a Medicaid recipient, shall review the recipient's prescription and nonprescription medication history and spells out where the history should be. This bill has passed the Senate and has been assigned to the Public Health Committee.

[HB 1487 Pitts SUPPORT](#) This bill is relating to the alignment of certain Medicaid procedures regarding written orders for diabetic equipment and supplies with comparable Medicare written order procedures. This bill has been sent to Calendars.

[SB 37 Zafirini SUPPORT](#) This bill is in the Health & Human Services Committee and has had a public hearing. It is relating to providing home- and community-based support services under the Medicaid program to persons who are deaf-blind with multiple disabilities.

[HB 852 Todd Smith SUPPORT](#) You have probably read a news story about this bill relating to nonpayment of hospitals under the state Medicaid program for certain preventable adverse conditions. It has had a public hearing in the Public Health Committee and has a Senate companion, SB 353, but is not moving.

[SB 531 Dan Patrick NEUTRAL](#) **Again, it time to put our heads together on this one!** It has passed the Senate and been assigned to the House Public Health Committee. It is relating to the billing coordination system for claims submitted for payment from the Medicaid program.

SERVICES FOR THE SERIOUSLY MENTALLY ILL Molly Van Ort (Dallas) mngo@sbcglobal.net

No report.

Natural Resources

AIR QUALITY Laura Blackburn (Seabrook, LWV-Houston Area) laura2blackburn@yahoo.com

Scheduled for public hearing on April 29 by the House Environmental Affairs Committee. We will prepare supportive statements for all of them:

[HB 721 \(Howard\)](#) SUPPORT This bill relates to several measures to improve the permitting procedures of Texas Commission on Environmental Quality (TCEQ). It was scheduled for hearing on April 22 but was rescheduled for April 29.

[HB 3590 \(Burnam\)](#) SUPPORT Requires the TCEQ to make an inventory of emissions air contaminants from oil or gas production, transportation, or processing facilities.

[HB 3591 \(Burnam\)](#) SUPPORT Relates to the control of emissions from crude oil and condensate storage tanks in non-attainment areas of the state.

[HB 4081 \(Farrar\)](#) SUPPORT Representative Farrar's bill relates to the issuance of flexible permits by TCEQ.

[HB 4082 \(Farrar\)](#) SUPPORT This bill requires the reduction of mercury emissions from electric generating facilities.

[HB 4083 \(Farrar\)](#) SUPPORT This bill refers to what is known as "cumulative effects"—however, those words are never mentioned. Representative Farrar instead substitutes "any pollutant either in isolation or in conjunction with air contaminants from other sources, a condition of air pollution." As she is on the committee, perhaps we will have more success.

[HB 4085 \(Farrar\)](#) SUPPORT This bill relates to monitoring of major sources.

Action on Bills:

[HB 290 \(Dutton\)](#) SUPPORT Relates to the cumulative effects of air contaminant emissions. It was heard on April 15 and was left pending in the Environmental Regulation Committee. We submitted supporting remarks.

[HB 776 \(Strama\)](#) SUPPORT This bill is identical to SB 119 by Ellis and relates to the implementation by the TCEQ of the California Low Emission Vehicle Program to apply to cars and light trucks. It would apply to vehicles with a model year of 2012 or later. We supported a similar bill in the last legislative session. We submitted a statement of support on April 15; however, no action was taken by the committee.

[HB 1553 \(Burnam\)](#) SUPPORT This is a companion bill to SB 988 by Ellis requiring certain state agencies to develop a climate adaptation plan. HB 1553 has passed out of the Environmental Regulation Committee and was sent

to Calendars on April 21. Senator Ellis presented this bill to the Senate Natural Resources Committee on April 8; however, the bill failed to receive an affirmative vote in committee. Let's hope Representative Burnam has more luck!

[HB 2497 \(Dunnam\)](#) SUPPORT Relates to a conditional reduction of nitrogen oxides emissions from certain coal-fired electric generating facilities. It requires that coal plants in non-attainment areas reduce nitrogen oxides to the extent technically feasible. We submitted remarks on April 15; however, the bill was left pending in committee.

[HB 3121 \(Alvarado\)](#) SUPPORT This bill requires the TCEQ to determine the top 3 toxics in Texas, study their effects, and provide solutions. We presented supportive remarks to the Environmental Regulation Committee on April 22, and the bill was left pending in committee. (The committee chair directed Representative Alvarado to see if TCEQ wasn't doing this already, and we were able to determine that they were not.)

[HB 3424 \(Burnam\)](#) SUPPORT This bill sets nitrogen oxide emission limits for cement kilns in non-attainment areas. It was heard on April 15 and left pending in committee.

[HB 3582 \(Dunnam\)](#) SUPPORT This bill requires TCEQ to create a comprehensive emissions database. It was heard on April 15 and left pending in committee.

[HB 3942 \(Truitt\)](#) SUPPORT This bill is the companion bill to **SB 760 by Wendy Davis** and provides for a NO₂ catalytic reduction pilot for cement kilns. It was heard by the Environmental Regulation Committee on April 15 and left pending in committee.

[HB 4346 \(Chisum\)](#) SUPPORT Relates to "no regrets" greenhouse emissions. It passed the committee on April 9 and sent to the Local and Consent Calendar on April 22. Its companion bill by Senator Watson passed the Senate on April 8 and was sent to the House Environmental Affairs Committee on April 22. **It appears that this bill will actually be passed by both houses!**

[SB 16 \(Averitt\)](#) SUPPORT Senator Averitt's omnibus bill has passed the Senate and was heard in the House Environmental Regulation Committee on April 29. We submitted a statement of SUPPORT

[SB 902 \(Davis\)](#) SUPPORT Limits natural gas and associated vapors from a gas well. It passed the Senate on April 22 and was received by the House on April 23. Its companion, **HB 2255 by Hancock**, was heard on April

22 by the House Environmental Regulation Committee and left pending in committee.

SB 1472 (Gallegos) SUPPORT Requires that public hearings be held on permits required under the Texas Clean Air Act. It passed the Senate on April 17 and is scheduled for a hearing in Environmental Regulation on April 29. We submitted a statement of SUPPORT

SB 1541 (Gallegos) SUPPORT This bill creates an air pollutant watch list. We offered supportive remarks on March 24, and it passed the Senate on April 9. It has now been assigned to the House Environmental Regulation Committee.

ENERGY Penny Miller (Wichita Falls) pmiller737@aol.com

HB 25 passed by House and received by Senate 4/6/09. Companion bill is Senate SB 236 left pending in committee and SB 403 referred to Intergovernmental Relations. These bills would prohibit Homeowners Associations from prohibiting solar panels.

HB237, HB238, HB 4088 Hearing April 22 in Ways and Means Committee. HB 237 would provide deduction to franchise tax for certain renewable energy devices. HB 238 would exempt sales tax for certain renewable energy devices. HB 7088 and companion SB 120 would reduce sales and use tax for hybrid and plug-in vehicles.

HB 239 referred to State Affairs. Bill that would study the proportion of state energy that could be met by renewable sources.

HB 278 and HB 280 left pending in the Energy Resources Committee. HB 278 relates to energy demand and incentives for distributed renewable energy. HB 280 relates to electric utility energy efficiency goals.

HB 303 Referred to Ways and Means Committee. The bill would exempt from sales tax labor to install tangible personal property in buildings with LEED certification.

HB 346/HB 2338 Left in Committee. Companion Bill SB 1716 referred to Finance Committee. Bills relate to refund of sales tax imposed on repair and remodeling services for certain energy efficient facilities.

HB 431 Passed out of State Affairs. Bill would require certain new state construction or remodeling to meet LEED standards. Similar bills include **SB 127** that was referred to Natural Resources Committee, **HB 2019** that was referred to State Affairs, and **SB 267** that was left pending in the Natural Resources Committee.

HB 1114/SB 1668 Were left pending in committee. Both bills that would provide price incentives to promote biofuels.

HAZARDOUS WASTE

SB 338 (Van de Putte) SUPPORT Bill is in the House, out of committee. Referred to Environmental Regulation on April 16.

HB 1867 (Anchia) SUPPORT Identical to SB 338 Testimony taken on April 8. Pending in committee.

LAND USE Karen Haschke (Austin Area) karenhaschke@sbcglobal.net

No report

TRANSPORTATION Edie Jones (Tarrant County) edithsjones@hotmail.com

HB 9 Texas Local Option Transportation Act(Truitt) SUPPORT Companion bill to SB 855
SB 855 Corona (passed by Senate)

There are six options currently proposed for funding local transit that would be voted on by citizens:

- A new resident impact fee of up to \$250 on vehicles that were formerly registered out of state
- Registration fee increase of up to \$60 annually (fees vary by county currently)
- Increase of up to \$24 on drivers license purchases or renewals.
- Gasoline tax increase of 5 to 10 cents per gallon (currently 20 cents per gallon)
- Emission fees up to \$15 (currently \$12.50)

- .Parking fee of \$2 on publicly owned lots.

Truitt wants to strip some of the fees from the list of options, particularly the parking fee. She would want to leave the local option gas tax and fee on emissions. This bill is not tied to the enactment of the legislation that would prohibit the diverting of gas tax funds to other purposes than transportation. This would need to be addressed on the conference committee. LWV presented testimony supporting this bill. It is unsure as of 4/26 when the bill will come up for a vote. Chairman Pickett said that his next priority is legislation overhauling the Texas Department of Transportation.

JUDICIAL POLITICS

Should Texas judges be appointed instead of elected? Huge political hurdles impede efforts to end judicial elections in Texas.

By [Chuck Lindell](#)

AMERICAN-STATESMAN STAFF

Monday, April 20, 2009

Texas is one of only seven states to select its judges in partisan political elections, and you'd be hard pressed to find anybody defending the system as ideal.

Good-government groups are appalled that judges accept campaign contributions from lawyers and businesses that appear in their courts.

Judges complain about the indignity of asking for those contributions. Lawyers aren't happy about being pressured to give. And ordinary citizens, polls show, wonder if Texas justice is being sold to the highest bidder.



"I think that is an irrational system," said Wallace Jefferson, chief justice of the Texas Supreme Court, where campaigns can easily top \$1 million. "It just doesn't make logical sense."

But don't expect quick results, or perhaps any results, this legislative session for a familiar idea: replacing judicial elections with a system of appointed judges.

Similar efforts have flared and died since at least the 1960s. Opposing sides are now so entrenched and the legal hurdles so high that credible experts doubt Texas can ever restructure its judicial election system.

One politician who has been trying for 16 years is Sen. Robert Duncan, R-Lubbock. In response to earlier criticism, Duncan scaled down this session's bill to create a system of appointed judges — and stirred up a new crop of detractors.

An exasperated Duncan lashed out at a recent hearing. "We're never going to get this perfect, because there is no perfect solution, but at some point everyone has to lay down their own personal bias and say we have to make this work better," he said. "Doing nothing preserves what is the worst system in the country."

But changing the way Texans elect judges would require a constitutional amendment approved by two thirds of the Senate and the House, magnifying the impact of interest groups that can scuttle change by stoking opposition from a small number of legislators.

Even if it clears that hurdle, an amendment must be approved by a majority of voters, which may prove to be the ultimate bar to an appointed judiciary. Voters have been electing Texas judges since the 1870s, and polls show about two-thirds of today's voters want that to continue, despite concerns about the influence of political contributions.

"Texans have a fondness for electing people to office," said Anthony Champagne, a University of Texas at Dallas political science professor and co-author of "Judicial Politics in Texas: Partisanship, Money, and Politics in State Courts." Champagne said he can already imagine the ad blitz about how "they" are trying to take away Texans' right to vote. "That would kind of kill the issue right there," he said.

Debating 'who picks the pickers'

Chief Justice Jefferson kick-started the latest reform effort with a passionate February speech to the Legislature citing the drawbacks of judicial elections: Too often, party affiliation trumps a candidate's qualifications, and the influence of campaign money destroys public confidence in both justice and the judges who administer it.

Jefferson says he wants the state's judges to be appointed to their jobs, standing for election periodically so voters can decide to keep them or toss them from office. No party affiliation would appear on the ballot, and judges who lose election would be replaced by appointment.

Judges operating under similar "merit selection" systems in other states don't carry the baggage of party affiliation and need to raise far less campaign money than their Texas counterparts, said Jefferson, who leaves it to legislators to fill in the details.

Enter Duncan, who for years has hustled Senate votes to create a politically and geographically diverse commission that would vet judicial candidates for their legal skill and send a slate to the governor, who would make the final choice.

Opponents, however, have focused on the prospect that one side — Republicans or Democrats, business or consumers, plaintiff or defense lawyers — would gain the upper hand on the commission and skew the judiciary and their decisions.

"The debate is always over who picks the pickers," Duncan said.

This session, Duncan scrapped the commission idea. His latest proposal would have the governor appoint the state's 80 appellate court judges, nine Supreme Court justices and nine Court of Criminal Appeals judges. After serving their first term, appointees would:

- Stand for election as they do today — running in their party's primary, and if they win, facing the other parties' nominees in November.
- Remain on the bench for future terms by winning voter approval in nonpartisan retention elections.

Duncan said he sees this hybrid approach as a best-of-all-worlds solution. The first election answers criticism that qualified candidates could not seek office under an appointment system, and subsequent retention elections would remove party labels and cost candidates far less money than partisan campaigns.

"Let's let judges be judges," Duncan said. "Let's not force them to be politicians, to raise money from folks who will be in their court and then criticize them for doing that."

'Better not to change'

But the new ideas brought a new round of critics.

Democrats were leery of ceding so many judicial appointments to governors in a predominantly Republican state. The Texas Trial Lawyers Association, a reliably Democratic interest group

representing plaintiffs lawyers, wanted greater checks and balances on gubernatorial appointment power.

Texans for Public Justice, a liberal advocacy group and a proponent of merit selection, said Duncan's proposal does not ensure that judges would be chosen by merit and would not save candidates from having to raise campaign money or court special interests.

Added to this are the traditional voices against an appointed judiciary — the state's Republican and Democratic parties, as well as some lawyer groups and African American and Hispanic rights organizations, Champagne said.

"If I were to handicap it, I would say that you are not going to get change in Texas," said Champagne, who has been studying judicial elections for 25 years. "Often, the sense is it's better not to change than to go into an unknown situation where your interests might get hurt."

Rep. Todd Hunter, R-Corpus Christi, recently got an earful during a hearing on his bill to create retention elections for appellate judges. Hunter decided to work with the factions to craft an acceptable measure, but he downplayed chances of success this session, which has six weeks to go.

"There's not a lot of time," he said. "So I'm not going to hurry anything without good public input."

Though Duncan said he thinks most Texans agree with his premise — judges should focus on the law, not politics — he too is unsure of the prospects for his own bills. "The external pressures haven't weighed in on this yet, and they will," he said.

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