



## IEC of Texas Legislative Alert

### The Texas 87th Legislative Session Gavels Out Sine Die

#### 87<sup>th</sup> Legislative Session Update – June 1, 2021

With quite a bit of drama to end the session, the 87<sup>th</sup> Legislature gavelled out Sine Die on May 31, 2021. Next is the Governors' Veto period which will end on June 20, 2021. The IEC of Texas has followed a record number of bills this session and this has been an amazing session for the construction industry and career and technical educators. The final list of IEC of Texas bills of interest is below. I will be sending out another report at the end of the Veto period.

#### **WORKERS DEFENSE BILLS:**

The workers defense bills all failed to pass but an important bill SB 14 passed and keeps municipalities and counties from passing ordinances determining business practices.

**SB 14 Creighton – Prohibition Against Municipality or County Requiring Certain Employment Benefits or Policies** - A municipality or county may not adopt or enforce an ordinance, order, rule, regulation, or policy requiring any terms of employment that exceed or conflict with federal or state law relating to any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms of employment. Any provision of an ordinance, order, rule, regulation, or policy that violates this is void and unenforceable.

#### **ELECTRICAL LICENSING BILLS:**

**HB 1560 Goldman – TDLR Sunset Bill** – Continuing Education for Electricians has been reinstated in this bill, however, mandatory Electrical Safety & Advisory Board meetings is still removed from statute and the meetings will be determined by the TDLR. Sent to the Governor.

#### **CONSTRUCTION/SMALL BUSINESS BILLS:**

**HB 19 Leach – Keep Texas Trucking Litigation Bill** - This bill relates to procedures, evidence and remedies in civil actions. Sent to the Governor.

**HB 1476 Bell – Relating to Vendor's Remedies for nonpayment on public work** – This bill would require a governmental entity to notify a vendor of any disputed amount in an invoice submitted for payment by the vendor within 21 days after receiving the invoice. The notice would have to include a detailed statement of the disputed amount. The governmental entity would be able to withhold from required payments no more than 110 percent of the disputed amount. Sent to the Governor.

**HB 1477 Bell – Relating to the Performance of Payment Bonds for Public Work Contracts on Public Property leased to a nongovernmental entity** – This bill would require and expand the applicability of the Government Code, governing performance and payment bond requirements, to a public work contract for work performed on public property leased by a

nongovernmental entity. A government entity that authorized a nongovernmental entity leasing public property from the governmental entity to contract with a prime contractor would have to require the contractor to execute performance and payment bonds for certain contracts. Sent to the Governor.

**HB 692 Shine – Retainage Requirements for Certain Public Works Construction Projects** –

This bill will have a government entity add a warranty period to be specified in the contract, provide a provision that establishes the circumstances under which the public works project is considered substantially complete and the entity may release all or a portion of the retainage for substantially completed portions of the project and fully completed and accepted portion of the project. The entity must maintain an accurate record of accounting for the retainage withheld on periodic contract payments and the retainage released to the prime contractor for the public works contract. Sent to the Governor.

**HB 738 Dennis- Residential Building Codes** – This bill mandates that municipalities may not adopt a local amendment to the International Residential Code unless the municipality holds a public hearing on the local amendment before adopting the local amendment. Sent to the Governor.

**HB 1572 Craddick – Defining Retail Electric Service Provider** – This bill would clarify that a person engaged in a business where by under contract it either rents electric service equipment to a third-party or operated its own electric service equipment on behalf of a third-party for a fixed fee or based on use or consumption if the energy produced by the electric service equipment is entirely consumed by the third-party and not resold is not a retail service provider. Sent to the Governor.

**HB 2237 Burrows – Lien Law Simplification Bill** – This bill is a clarification and simplification bill for the mechanic, contractor's or materialman's liens. Sent to the Governor.

**HB 3069 Holland – Statutes of Limitation and Repose for Certain Claims** - A governmental entity must bring a suit for damages for a claim for a cause of action arising out of a design, plan, or inspection of the construction of an improvement to real property or equipment attached to real property against a person who constructs or repairs an improvement to real property not later than five years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property. Sent to the Governor.

**HB 3416 Darby – Relating to Indemnity Agreements between contractors and subcontractors for services pertaining to certain wells or mines** - Chapter 127 deals with restrictions on indemnification in Oil, Gas & Mineral contracts, prohibiting indemnification by subcontractors of upstreams (Contractor, Owner) against the consequences of their own negligence. Sent to the Governor.

**SB 207 Schwertner- Keep Texas Trucking Coalition Bill/Medical Damages – DEAD** - This bill was pulled down because the "Texas Supreme Court handed down another opinion affecting the issues being addressed in SB 207. Combined with the Allstate opinion, the Court probably has fixed the medical evidence problems." (This bill restructures medical damages in commercial vehicle accident claims. This bill explicitly provides for the introduction of evidence relating to the medical or healthcare expenses sought by a plaintiff in a civil action, and expands the category of evidence which is deemed appropriate for introduction into evidence including actual amounts paid, financial interest of healthcare providers and the outcome of the suit, routinely-paid amounts for similar services and statistical averages of amounts routinely accepted for such services. These expanded categories of acceptable evidence could serve to reign in excessive verdicts in plaintiff-driven accident cases.)

**SB 219 Hughes - Construction Defects** – This bill changes the contractor's responsibility for construction defects, by explicitly relieving a contractor of responsibility for a failure on a construction project which has resulted from a defective design contained in plans and

specifications provided by the party hiring the contractor. It also requires that a contractor notify of any known defects in plans and specifications. It further precludes a governmental entity from requiring that architectural or engineering services meet a higher standard than that of an ordinarily prudent architect or engineer with the same professional license under the same or similar circumstances.

**SB 291 Schwertner – Commercial Building Construction Projects** – This bill will require the developer of a commercial building construction project to visibly post the name and contact information of the developer and a brief project description of the project at the construction site as soon as practicable after beginning construction of a commercial building project in Texas. Sent to the Governor.

**SB 338 Powell – Adoption of Uniform General Conditions for School District Building Construction** – This bill allows school districts to adopt uniform general conditions to be incorporated in all district building construction and adds two more individuals representing The Texas Association of School Boards and the Texas Association of School Administrators to the committee appointed by the commission to perform the review which includes Presidents of: AGC, ABC, Texas Society of Professional Engineers, Mechanical Contractors of Texas, Texas Building and Construction Trades Council, an individual from higher education, and individual representing a state agency, an individual representing the attorney general, three individuals representing the interests of HUBs. Sent to the Governor.

**SB 518 Kolkhorst – Prevailing Wage & Texas Workforce Commission – DEAD by procedural action** – (This bill will allow data collected by the Texas Workforce Commission's Labor Market and Career Information Department, including occupational employment statistics wage data for the local workforce development area relating to the locality in which the public work is performed or the state, only if there is no data available for relevant local workforce development for the specified occupation.)

**SB 808 Hughes – Recovery of Attorney's Fees in Civil Cases** – A person may recover reasonable attorney's fees from another person an individual or corporation is removed, in addition to the amount of a valid claim and costs, if the claim is for: (1) rendered services; (2) performed labor; (3) furnished material; (4) freight or express overcharges; (5) lost or damaged freight or express; (6) killed or injured stock; or (7) a sworn account; or (8) an oral or written contract. A claimant or defendant may recover reasonable attorney's fees from a person if the claimant or defendant prevails in an action for an oral or written contract.

#### **WORKFORCE EDUCATION BILLS:**

**HB 626 Rosenthal – Expansion of Texas Innovative Adult Career Education Grant Program** - This bill will expand the program to include certain nonprofit organizations providing job training to veterans. Signed by the Governor, earliest effective date 9/1/21. Signed by the Governor, earliest effective date 9/1/21.

**HB 1032 Thierry– Reimbursement for Paid Internships– DEAD** – (This bill will reimburse private employers under the Foundation School Program to community based organizations for paid internships provided to certain students in career and technology education programs in the districts and to encourage private employers to participate with school districts in providing career and technology education to assist students in developing the knowledge, skills and competencies necessary for a broad range of career opportunities. The bill also allows for school districts to contract with community-based organizations to match students participating in career and technology programs in the district with paid internships or similar programs and reimburse private employers for all or part of the cost of providing the internships.)

**HB 1799 Button - TWIC and ATAC Clean up** - This bill changes the administration of apprenticeship training programs by removing the Bureau of Apprenticeship and Training and adding Office of Apprenticeship in the Education Code. The TWC must prepare an annual report

to TWIC or to ATAC that includes an apprenticeship-related instruction cost study for the most recent state fiscal year and the funding distribution for apprenticeship related instruction programs for the state fiscal year. Sent to the Governor.

**HB 1247 Lozano – Tri-Agency Work Based Learning Strategic Framework** – This bill codifies and will jointly develop, between the TEA, THECB, a strategic framework to encourage work-based learning in Texas. Sent to the Governor.

**HB 3264 Dominguez – Workplace Soft Skills Training Pilot Program – DEAD** – (The Texas Workforce commission shall establish and administer a pilot program in Cameron County (Rio Grande Valley) under which the division: offers a six-week training course on workplace soft skills.)

**HB 3767 Murphy – Measures to support workforce development in the state including the establishment of a Tri-Agency Workforce Initiative and Additional Employer Data Reporting** – Would codify the Tri-Agency Workforce Initiative which is established to support workforce development. To coordinate and optimize information and other resources as necessary to: align career education and training programs to workforce demands; provide residents of the state with timely and accurate information needed to plan education and workforce pathways; and enable local and state policymakers to evaluate the effectiveness of career education and training programs and progress toward the state workforce development goals. Sent to the Governor.

**HB 3938 Bell – Establishment of the Industry-Based Certification Advisory Council** – This bill creates the industry-based certification advisory council which is established to advise the commission regarding the alignment of public high school career and technology education programs with current and future workforce needs in communities, regions, and the state. Sent to the Governor.

**HB 4525 Gates – DEAD - Approval of CTE Courses by the State Board of Education** – (This allows the state board of education to approve CTE courses that are offered online or through an internet portal maintained by the district or agency and to mandate the course list is updated.)

**SB 337 Powell – The Award of Grants by the Texas Workforce Commission to facilitate the participation of certain veterans and military personnel in apprenticeship training programs** – This bill mandates that the Texas Workforce Commission develop and administer a program under which the commission may award grants to one of more nonprofit organizations that facilitate the participation in apprenticeship training programs of veterans and active-duty military service members who are transitioning into civilian employment. A grant awarded under this section of the law may be used only to recruit or assist veterans or active-duty military service members who are transitioning into civilian employment to participate in an apprenticeship training program in Texas. Sent to the Governor.

**SB 770 Hughes –Eligibility for Job-Training programs under the Self-Sufficiency Fund** - This bill adds individuals who are identified by the commission as being low-income or at risk of becoming dependent on public funds to the self-sufficiency fund for use by technical colleges and community-based organizations. Signed by the Governor, earliest effective date 9/1/21.

**SB 1094 Creighton – Payment of Apprenticeship Education Expenses using the State’s programs for paying, prepaying, or saving toward the costs of attending an institution of higher education** - This allows prepaid college expenses to be used for apprenticeship program expenses as if the apprenticeship program was an institution of higher education.

SB 1095 Creighton – Regarding the availability to public school students of college credit and work-based education programs - Each school year, a school district shall notify the parent of each district student enrolled in grade nine of: the availability of programs in the district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate

programs; This bill adds: career and technology education programs or other work-based education programs in the district, including any internship, externship, or apprenticeship programs or a P-TECH program under Subchapter N, Chapter 29; and subsidies based on financial need available for fees paid to take college advanced placement tests or international baccalaureate examinations under Section 28.054; and the qualifications for enrolling in programs described by Subdivision (1)(A) or (B).

**SB 1524 Hughes – Relating to a sales and use tax refund pilot program for persons who employ apprentices** - Qualified apprenticeship" means an apprenticeship program that is: certified as an industry-recognized apprenticeship program by an entity determined to meet United States Department of Labor criteria; or registered with the United States Department of Labor and qualified to receive funding provided through the Texas Workforce Commission under Chapter 133, Education Code. A person is eligible for a refund in the amount and under the conditions provided by this section of the taxes paid under this chapter during a calendar year if the person is certified by the executive director under Subsection (f) and employs at least one apprentice in a qualified apprenticeship position for at least seven months during the calendar year. A person is not considered to be employed in a qualified apprenticeship position for purposes of this section after the earlier of: (1) the fourth anniversary of employment in the position; or (2) the conclusion of the term of the apprenticeship position. The amount of the refund for a calendar year in connection with each apprentice described by Subsection (b) is \$2,500. Sent to the Governor.

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