



Texas Legislative Study Group

An Official Caucus of the Texas House of Representatives

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LSG Floor Report For General State Calendar – Wednesday, October 24, 2023

<p>SB 7</p> <p>By: Middleton</p> <p>Sponsor: Leach Klick Troxclair Raymond</p>	<p>Relating to prohibiting an employer from adopting or enforcing certain COVID-19 vaccine mandates; authorizing an administrative penalty.</p>	<p>State Affairs</p> <p>6 Ayes, 3 Nays, 0 PNV, 0 Absent</p>	<p>SB 7 prohibits private employees from enforcing COVID-19 vaccine policies. The Legislature banned COVID-19 vaccine mandates for state and local governmental entities during the 88th regular session.</p> <p>SB 7 prohibits employers from taking “adverse action” against an employee — defined as “punishing, alienating, or otherwise adversely affecting an employee” — for failing to be vaccinated against COVID-19.</p> <p>Under SB 7, an employee, contractor, or applicant can file a complaint with the Texas Workforce Commission (TWC) which would conduct an investigation. If TWC determines adverse action was taken and the employer refuses to hire or reinstate the employee, the employer will be fined an administrative penalty of \$10,000 per violation. SB 7 also authorizes TWC to seek injunctive relief from the Attorney General to prescribe actions to prevent further violations.</p> <p>SB 7 provides an exception for health care facilities, health care providers, and physicians, which may establish “reasonable policy,” including the use of protective medical equipment for employees refusing to be vaccinated against COVID-19. Public and private hospitals, physicians’ offices, nursing facilities, hospice care facilities, and assisted living facilities are some of the facilities included in the exemption. The Department of State Health Services (DSHS) would consult with TWC to determine “reasonable policy.”</p> <p>Concerns SB 7 is a solution in search of a problem. Employers are already required to provide reasonable accommodations required by Title VII and the Americans with Disabilities Act (ADA) for employees who, because of a disability or a sincerely held religious belief, practice, or observance, do not get vaccinated against COVID-19. Hospitals also offer medical or religious exemptions for those who do not want to be vaccinated.</p> <p>Furthermore, there has not been a mass workforce exodus associated with COVID-19 vaccine mandates. In fact, during the bill’s hearing, the TWC testified that they received 14 complaints in the last quarter in a state with roughly 15 million in the civilian labor force. Vaccine-related issues are the least cited reasons for hospital staff departures while burnout and fatigue top the list.</p>	<p><u>Unfavorable</u></p>
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			<p>SB 7 infringes on the rights of business owners to enforce workforce policies. Private businesses should be able to set their own workplace policies around COVID-19 – whether that involves masks, work from home policies, or testing. Employers should be able to mitigate the risk of their elderly and immunocompromised workforce.</p> <p>There is no flexibility in the administrative penalty to account for mitigating factors. While the engrossed version of SB 7 allowed TWC to impose a fee up to \$10,000 per violation, the committee substitute before the House today requires TWC to impose \$10,000 per violation. This could be a detrimental blow to small businesses who may have extenuating circumstances.</p> <p>There are concerns that SB 7 sets a precedent that will make it easier for the Legislature to completely restrict all vaccine requirements in the future. There’s also the question of what happens if another, more powerful COVID variant emerges for which the vaccine is a necessary precaution and businesses can no longer craft dynamic policies to protect their employees.</p> <p>SB 7 furthers misinformation about the COVID-19 vaccine, which is safe and effective. According to the CDC, Americans who received an updated COVID-19 vaccine were 14 times less likely to die than those who received no vaccine.</p>	
<p>SB 4 By: Flores Sponsor: Guillen Morales, Eddie Lopez, Janie Raymond Holland</p>	<p>Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.</p>	<p>State Affairs 9 Ayes, 3 Nays, 0 PNV, 1 Absent</p>	<p>SB 4 enhances penalties for smuggling-related offenses.</p> <p>SB 4 establishes a 10-year mandatory minimum for smuggling and continuous smuggling. The minimum sentence can be lowered to 5 years for “significant cooperation” with the state or law enforcement. Currently, a smuggling offense can be tried as a first, second, or third-degree felony carrying prison terms from two to five years on the low end and 10 to 99 years on the high end.</p> <p>SB 4 creates enhancements to a third-degree felony with a 5-year mandatory minimum for several offenses if committed together with the operation of a stash house. The bill establishes a third-degree felony charge with a minimum of 5 years of prison if, during the commission of operating a stash house, the property subject to the offense is used to commit or facilitate kidnapping, smuggling, trafficking, prostitution, or a person was a victim of sexual assault, aggravated sexual assault, serious bodily injury, or death. Currently, the operation of a stash house is punishable by up to one year in jail.</p> <p>SB 4 authorizes increasing the penalty for smuggling, continuous smuggling, and operating a stash house to the next higher category if committed in a declared disaster area, with a minimum term of 15 years.</p> <p>SB 4 enhances penalties to a third-degree felony for trespassing, burglary, and evading arrest if the smuggling of persons occurred at the commission of the original offense.</p>	<p><u>Unfavorable</u></p>

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			<p>Concerns Texas smuggling laws are already overly broad, potentially criminalizing everyday activities. As defined in statute, a smuggling offense includes the “intent to conceal” an individual from a peace officer with no prerequisite for a pecuniary benefit. Because “intent to conceal” is at the discretion of the peace officer, it opens the door for a wide range of activities — whether it be a baby in the backseat covered by a blanket, a van with tinted windows driving a group to church, or a car turning the opposite way of an officer while driving someone to the doctor. SB 4 further penalizes this already broad offense.</p> <p>Mandatory minimums lack the judicial discretion necessary for fair sentencing. Judges typically consider the offender’s history and other mitigating factors when determining sentencing. However, SB 7 mandates minimum sentences which may lead to overly harsh penalties that are not in the interest of justice. Additionally, there is little evidence that mandatory minimums effectively deter crime. Even serious violent crimes, like murder, don't have mandatory minimum sentences in Texas.</p> <p>The consequences of such broad laws can be severe, including long-lasting negative impacts on individuals and their families, such as job loss, barriers to education, housing issues, and deportation.</p>	
<p>HB 6 By: Jetton, Jacey Bonnen DeAyala</p>	<p>Relating to making an appropriation for the construction, operation, and maintenance of border barrier infrastructure.</p>	<p>Appropriations 14 Ayes, 9 Nays, 0 PNV, 4 Absent</p>	<p>HB 6 appropriates \$1.5 billion to construct a border wall. The Legislature already appropriated \$5.1 billion for border security during the regular session, \$650 million of which will be spent on a border wall, as determined by the Office of the Governor (OOG).</p> <p>Concerns Border walls have not been shown to deter or curb migration. For example, 455 miles of border wall were constructed under former President Trump. As migration grew, so too did the number of crossings. The wall has not stopped immigrants from coming or successfully entering illegally.</p> <p>Even if border walls were effective at curbing immigration, immigration policy is the responsibility of the federal government, not state legislatures. The Biden administration just approved 20 miles of border wall construction with funds appropriated in 2019. Additionally, the White House recently issued a funding request to Congress that includes nearly \$14 billion for U.S.-Mexico border security. The funds would help hire new asylum officers, processing personnel, and border patrol agents, as well as add immigration judges and boost homeland security efforts. Why is the state pitching in extra tax dollars for this effort?</p> <p>Even if border walls were effective and the state had a role in immigration enforcement, the scale and magnitude of an 800 mile steel wall with necessary technology and upkeep, should be</p>	<p><u>Unfavorable</u></p>

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			<p>coordinated with the federal government to allocate resources efficiently, avoid duplicative efforts, and ensure that the state does not over-tax its citizens for an international matter. One-time, inconsistent appropriations by the Legislature without a long-term plan or coordination with the federal government is a mismanagement of taxpayer dollars.</p>	
<p>HB 4 By: Spiller Hefner Bell, Keith</p>	<p>Relating to prohibitions on the illegal entry into or illegal presence in this state by a person who is an alien, the enforcement of those prohibitions, and authorizing the removal of persons who violate certain of those prohibitions in lieu of arrest; creating criminal offenses.</p>	<p>State Affairs 8 Ayes, 3 Nays, 0 PNV, 2 Absent</p>	<p>HB 4 creates state offenses for already-established federal immigration offenses to allow state and local peace officers to enforce immigration laws.</p> <p>HB 4 creates state offenses for illegal entry from a foreign nation and reentry by certain non-citizens. Under HB 4, it is a Class B misdemeanor to enter the state from a foreign nation from anywhere other than a lawful port of entry. A second illegal entry is a state jail felony. HB 4 also makes it a Class A misdemeanor for illegal reentry by an "alien," or non-citizen, who was denied admission to or deported from the U.S. or has departed from the U.S. while an order of exclusion, deportation, or removal is outstanding. It would be a second or third-degree felony if the person, in conjunction with the reentry offense, committed certain crimes.</p> <p>HB 4 authorizes peace officers to transport persons detained for illegal entry to a port of entry and order them to return to the foreign nation they came from. Refusing to comply with the order is a second-degree felony.</p> <p>Lastly, HB 4 directs state and local governments to indemnify, or pay damages, for officials enforcing the bill's provisions in good faith.</p> <p>Concerns The U.S. Constitution's supremacy clause has firmly established immigration policy as the responsibility of the federal government, not state legislatures. Experts contend that HB 4 was drafted with the goal of challenging this long-standing precedent (at the taxpayers' expense).</p> <p>The most concerning aspect of HB 4 is the authority afforded to peace officers to enforce complex immigration laws. Under HB 4, a peace officer would be allowed to determine the legality of a person's status and the circumstances in which they entered the U.S. They would also be authorized to transport persons to any of the 31 ports of entry in the state under threat of a more severe offense. Peace officers include local sheriffs, municipal police, and even school resource officers or marshalls. HB 4 offers no guidance for what happens after a person is transported and may inadvertently lead to the separation of families.</p> <p>Lastly, because HB 4 will empower local law enforcement to inquire about immigration status, HB 7 may increase law enforcement surveillance and unlawful racial profiling.</p>	<p><u>Unfavorable</u></p>