

LEGISLATIVE UPDATE 2017



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BILL STATISTICS

Status	HB	HCR	HIR	HR	SB	SCR	SIR	SR	Total (HB/SA)	Total
Filed	4333	138	111	2707	2298	64	58	963	6631	10672
Passed	700	68	3	2682	511	29	6	961	1211	4960
Vetoed	36	0	0	0	15	0	0	0	51	51

SIGNED INTO LAW

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|---|---|
| <ul style="list-style-type: none"> • House Bills – HB 89 (Israel) – HB 108 (skills development fund) – HB 1449 (imposed construction fee offset) – HB 1463 (ADA standards) – HB 1698 (journeyman licensing) – HB 1818 (Texas Railroad Commission) – HB 2040 (building code) – HB 2121 (state contract breach - atty fees) – HB 3021 (indemnity for State negligence) – HB 3270 (school background checks) | <ul style="list-style-type: none"> • Senate Bills – SB 302 (state bar) – SB 807 (venue) |
|---|---|

HB 89

- Requires a provision in any contract with a governmental entity by a company providing goods or services verifying that the company:
 - Does not boycott Israel and
 - Will not boycott Israel during the term of the contract
- Prohibits state and local governments from contracting with companies that boycott Israel (Texas' fourth leading trade partner)
- Texas joins other states that have responded legislatively to this national origin discrimination
- Signed 5.2 / Effective 9.1

HB 108

- Will allow the Texas Workforce Commission to use money from the skills development fund to support employers expanding in Texas or relocating to Texas who will provide highly skilled or complex employment opportunities
- Signed 6.1 / Effective 9.1

HB 1449

- Prohibits Texas cities from charging "linkage fees" on new construction or rehabilitated development to help pay for affordable housing
- Industry representatives successfully argued that "linkage fees" harm housing affordability by making development more expensive, ultimately increasing the price of housing by passing developer charges on to consumers
- The City of Austin does not have such a fee, though some had suggested implementing one
- Signed 5.29 / Effective immediately

HB 1463

- Relating to procedures for actions alleging failure to comply with certain standards to accommodate persons with disabilities
- Proponents say the law will rein in unnecessary lawsuits arising from easily remedied architectural inadequacies under the Americans with Disabilities Act
- As a prerequisite to filing suit, a person asserting an ADA claim must give notice to the alleged non-compliant business containing information about the claimant, details of each alleged ADA violation, and the time, place, and manner in which the claimant discovered the alleged violation
- The recipient has the right to cure the violation within 150 days
- The Attorney General may bring an action against a person for filing an ADA claim in bad faith and may seek:
 - An injunction against the person
 - Civil penalties up to \$50,000 per violation
 - Restitution against the recipient of a bad faith claim
- Signed 6.1 / Effective 9.1

HB 1698

- Relating to the licensing and regulation of a journeyman industrial electrician
- Creates a new licensing category, not a new licensing requirement
- Allows Texas Department of Licensing and Regulation to recognize a third party certification (NCCER Industrial Electrician) as the basis for allowing Electrical Apprentices in the industrial sector to be recognized for this license
- Signed 6.15 / Effective 9.1

HB 1774

- Targets the spike in hailstorm insurance claims, mandating a 61 day period following written notice to an insurer before the filing of a claim related to real property damage caused by various natural disasters, such as hail, flood, or wildfire
- Provides for right to request a pre-lawsuit inspection and if the inspection requirements are not met, allows for abatement and a prohibition on any recovery of attorney's fees for the claimant
- Provides for the assumption of an adjuster's or insurance agent's liability by the insurer and once the insurer assumes the agent's liability, the claims against the agent must be dismissed with prejudice
- Should the award made to a claimant account for less than 20% of the pre-suit damage demand, there is no recovery of attorney's fees
- Signed 5.26 / Effective 9.1

HB 1818

- Continuation of the Railroad Commission of Texas
- Improves pipeline safety and enforcement reporting requirements
- The energy and natural resources industry is the top funding source for the state's 181 lawmakers (according to government accountability group Texans for Public Justice, the energy and natural resources sector supplied 11 cents of every dollar that lawmakers raised)
- Signed 5.22 / Effective 9.1

HB 2040

- Relating to the building code standards for new residential construction in the unincorporated area of certain counties
- Tex. Loc. Gov't Code Chapter 233 gives counties authority to mandate that:
 - All homes in unincorporated areas be built to code and receive a minimum of three independent third-party code inspections
 - The builder provide notice of whether the home complied with the mandated code requirements and inspections
- A gap exists in the counties' enforcement of code mandates
- Closes the gap
- Provides the builder an affirmative defense if a failure to provide proper notice is due to a failure of the code inspector to provide the builder with proper documentation
- Signed 6.14 / Effective 9.1

HB 2121

- Relating to damages in certain contract claims against the state.
- Amends Gov't Code § 2260.003 by adding Subsection (d) :

Authorizes an award of damages under this chapter (Resolution of Certain Contract Claims Against the State), notwithstanding Subsection (c) (relating to certain prohibitions relating to awards of damages), to include attorney's fees if:

 - (1) the claim is for breach of a written contract for engineering, architectural, or construction services or materials related to those services; and
 - (2) the amount in controversy is less than \$250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees.
- Signed 6.9 / Effective immediately

HB 3021

- Relating to indemnification and duties of engineers and architects under certain governmental contracts
- Establishes that a state or governmental entity cannot require a contractor to defend the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees
- The bill also makes the laws established in Local Gov't Code, sec. 271.904(a)-(e) applicable to contracts between state agencies and an architect or engineer for their services under the Professional Services Procurement Act
- Signed 6.15 / Effective 9.1

HB 3270

- Relating to criminal background checks for persons employed by certain public school contractors
- Decides when the state's mandatory background check applies to school construction projects
- A single standard is clear in statute, reciprocity within a region becomes easier to accomplish.
- Signed 5.30 / Effective 9.1

SB 302

- Relating to the continuation and functions of the state bar
- Provisions include:
 - making various enhancements to the grievance process, including new investigative tools, sanction guidelines, and greater opportunity for earlier resolution of complaints;
 - creating an independent ombudsman to answer questions from those seeking to file grievances and to ensure that the system is working;
 - requiring the State Bar to post more data on its website about attorney disciplinary actions; and
 - maximizing the use of the informal dispute resolution program in the grievance system
- Signed 6.15 / Effective 9.1

SB 807

- Relating to choice of law and venue for certain construction contracts.
- Establishes that if a construction contract contains a provision making the contract or any conflict arising under the contract subject to another state's law, litigation in the courts of another state, or arbitration in another state, that provision is voidable by the party promising to construct or repair the improvement.
- While current law gives a contractor and subcontractor the ability to void such a clause in a construction contract, broadens the coverage of the law to include all project participants, including architects, engineers, suppliers and equipment rental companies
- Signed 6.9 / Effective 9.1

VETOED

- House Bills
 - HB 2783 (public information act litigation costs)
- Senate Bills
 - SB 744 (tree planting credit)
 - SB 813 (frivolous regulatory action)
 - SB 1215 (contractor design defect liability)

HB 2783

- Relating to the assessment of litigation costs and attorney fees in certain lawsuits under the public information law.
 - Vetoesd 6.15
 - “By threatening the taxpayers with attorneys’ fees, House Bill 2783 creates an incentive for requestors of public information to sue the government as quickly as possible instead of waiting for the statutorily defined public information process to play out. The stated purposes of this bill could have been achieved without giving lawyers the ability to threaten taxpayer-funded attorneys’ fees awards against governmental bodies that are just trying to follow the law.” - Abbott

SB 744

- Relating to a tree planting credit to offset tree mitigation fees imposed by a municipality.
 - Vetoed 6.15
 - “Cities telling landowners what they can and cannot do with the trees in their own backyard is an assault on private property rights. Senate Bill 744 appears to be a compromise bill that imposes a very minor restriction on some municipal tree ordinances. But in doing so, it gives the imprimatur of state law to the municipal micromanagement of private property, which should be abolished altogether. This bill was well-intentioned, but by the end of the legislative process it actually ended up doing more to protect cities than it did to protect the rights of property owners. I applaud the bill authors for their efforts, but I believe we can do better for private property owners in the upcoming special session.” - Abbott

SB 813

- Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.
 - Vetoed 6.15
 - “Senate Bill 813 is well-intentioned, but it subjects the State to the possibility of extensive financial liability. Under the bill, taxpayer liability would be triggered any time a judge decides the State's action is 'unreasonable,' a vague and broad standard that varies with the eye of the beholder. This financial liability would be borne by the taxpayers, not by the bureaucrats who caused the problem. The bill was inspired by legitimate concerns about regulatory overreach, but exposing the State fisc to limitless jury verdicts is not the right solution.” - Abbott

SB 1215

- Relating to the creation of a joint interim committee to study issues related to construction contracts.
 - Vetoed 6.15
 - “Legislation mandating legislative studies and legislative interim committees is unnecessary. The Legislature is free to study construction contracts with or without this bill.” – Abbott
 - Reps. Workman, Shine, Oliveira, Hunter, and Kacal organized to salvage the bill and amend it to create a joint interim committee. The group will study nearly every issue surrounding construction contracts, including: statute of repose, right to repair, allocations of risk and liability, relationships between parties, insurance, liens, warranties, standards of care, and civil actions.

