

SUBJECT: Transferring the driver's license and other programs from DPS to TxDMV

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Canales, Landgraf, Bernal, Y. Davis, Hefner, Krause, Leman, Martinez, Ortega

0 nays

4 absent — Goldman, Raney, Thierry, E. Thompson

WITNESSES: For — (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Michael Belsick; Terri Hall; Matt Long; Ken Olson)

Against — Michelle French and Shay Luedeke, Tax Assessor-Collectors Association of Texas; (*Registered, but did not testify*: Gwenda Tschirhart, Tax Assessor-Collectors Association of Texas; Alexie Swirsky)

On — (*Registered, but did not testify*: Whitney Brewster, Linda Flores, Mike Higginbotham, and Jeremiah Kuntz, Texas Department of Motor Vehicles; Amanda Arriaga, Texas Department of Public Safety)

DIGEST: CSHB 11 would transfer from the Department of Public Safety (DPS) to the Texas Department of Motor Vehicles (TxDMV) the powers and duties of the following programs effective January 1, 2021:

- the issuance of driver's licenses under Transportation Code chs. 521 and 522;
- the issuance of personal identification certificates under Transportation Code ch. 521;
- the issuance of election identification certificates under Transportation Code ch. 521A; and
- the registration of voters during the issuance or renewal of a driver's license or personal identification certificate.

On September 1, 2019, or as soon as possible after that date, the public safety director would have to adopt a comprehensive plan to ensure the smooth transition. DPS would continue to perform the duties and functions being transferred until the transfer was completed.

Study of transfer. As soon as practicable after the bill's effective date, TxDMV would have to study the best use of available state and county resources, including personnel, property, and technology resources, to perform the duties associated with the transferred programs. In the study, TxDMV would have to prioritize customer service satisfaction, including reducing wait times; accessibility to facilities, including in rural areas; and administrative efficiency and cost savings. DPS would assist in the study if requested.

Continuation of functions. An activity conducted by DPS would be considered to be an activity conducted by TxDMV. All DPS rules would be continued in effect until superseded by a TxDMV rule.

A license or certification issued by DPS would be continued as provided by the law in effect immediately before the bill's effective date.

A complaint, investigation, contested case, or other proceeding pending on the bill's effective date would be continued without change in status.

Transfer of funds, personnel, and property. All money, contracts, leases, rights, property, records, bonds, and other obligations related to the programs would be transferred from DPS to TxDMV.

An employee of DPS' Driver License Division or any other employee related to a power or duty transferred under the bill would become an employee of TxDMV.

The unobligated and unexpended balances of any appropriations made to DPS in connection with or relating to programs for fiscal 2020-21 would be transferred and reappropriated to TxDMV.

Information systems. The governing bodies of DPS and TxDMV would have to enter into or revise a joint memorandum of understanding (MOU) to connect each agency's information systems so each department could effectively and efficiently perform the functions and duties assigned to it. The agencies would have to implement the joint MOU using existing personnel and resources, and it would have to be entered into or revised at the first meeting of the TxDMV board after the bill's effective date.

Confidential information shared under the MOU would remain subject to the same requirements and restrictions that were imposed by law on the department that originally obtained or collected the information. Information could be shared under the MOU without consent of the subject of the information.

The governing bodies of the agencies could enter into or revise one or more other joint memoranda. An MOU could include an agreement for the provision of office space, utilities, and other facility services; the need for full-time equivalent positions of DPS to provide support services in addition those transferred to TxDMV; other support services; and the transfer of information technology.

Other provisions. The bill would make certain changes to the Alcoholic Beverage Code, Business and Commerce Code, Code of Criminal Procedure, Election Code, Family Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Occupations Code, and Tax Code related to the transfer of programs.

Reproduction of records. TxDMV could photograph, microphotograph, or film any record in connection with the issuance of a driver's license or commercial driver's license and could create original records in micrographic form on media, such as computer output microfilm.

A photograph, microphotograph, or film of a record would be equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film would

be admissible as evidence equally with the original.

The TxDMV director could certify the authenticity of a reproduced record and would have to charge a fee for the certified record. Certified records would be furnished to any person authorized by law to receive them.

The bill would prohibit an original fingerprint card from being photographed or filmed to dispose of the original record.

Photographs for sex offender registry. TxDMV would have to send to DPS any photograph of a person required to register as a sex offender that was made available through the process of issuing, renewing, or correcting a driver's license or personal identification certificate for DPS to use in the central sex offender database.

Notification of driver's license suspensions. TxDMV would have to notify DPS of the suspension of a driver's license and vehicle registration under the Motor Vehicle Safety Responsibility Act (Transportation Code ch. 601).

TxDmv would have to send DPS a copy of each notice of suspension or denial of a driver's license due to a driver's refusal to give a specimen requested by a peace officer who believed the person was intoxicated.

Driver and safety education advisory committee. The bill would add a TxDMV representative to the membership of the advisory committee to the Texas Commission of Licensing and Regulation on driver and traffic safety education.

Limit on personnel at driver's license facilities. The bill would remove a provision limiting the number of commissioned officers and supervising personnel assigned to driver's license facilities.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS
SAY:

CSHB 11 would address concerns that the current processes, procedures, and management of the driver's license program are in need of reform by transferring administration of the program from the Department of Public Safety (DPS) to the Texas Department of Motor Vehicles (TxDMV). Transferring the program would allow DPS to continue to prioritize other public safety functions and combine the program's administration with motor vehicle services and regulation in TxDMV. Currently, 42 states issue drivers' licenses through a department of motor vehicles.

Sunset staff have noted that TxDMV administering the driver's license program could be more efficient and benefit customers. DPS has had problems with driver's license customer service, including long wait times at offices and its call center, and according to Sunset staff, these problems have only gotten worse. TxDMV has a division dedicated to customer relations that receives high customer satisfaction ratings, and customers could benefit from having both driver's license and motor vehicle functions in a single agency.

Transferring the driver's license program from DPS to TxDMV would be complex, requiring consideration of information technology infrastructure and systems, human resources, facilities, and other factors. For this reason, the bill provides a framework for DPS and TxDMV to work together to evaluate the challenges of and recommend solutions to ensure a successful transfer. The study would include an assessment of personnel, property, and technology resources, among other items, providing an opportunity for TxDMV to address any needs prior to transfer.

The timelines for the study and transfer of the program under the bill are necessary to ensure that the Legislature would have an opportunity to address any needs of the driver's license program or TxDMV through legislation and the budget process during the next session.

OPPONENTS
SAY:

Although it makes sense to move the driver's license program from DPS to TxDMV, now is not the time because TxDMV would need additional resources to improve effectiveness before any transfer. TxDMV lacks

sufficient leadership and has deficiencies in its information technology system capacity that need to be addressed for it to handle the driver's license program.

CSHB 11 should be amended to include a third-party study of the transfer of the driver's license program from DPS to TxDMV as recommended by Sunset staff. This study by a neutral party would be critical for evaluating the challenges with this complex transition. One of the main issues the assessment should address is the migration of information technology hardware and software for the driver's license program from DPS' own data center to possibly either the state data center or a commercial cloud. The associated costs of such a migration are estimated to be significant.

In providing for the third-party assessment, the bill also should postpone the timelines for the DPS director's plan, the TxDMV study, and the transition to a date that would allow the assessment to be fully considered and any identified issues addressed.

NOTES:

According to the Legislative Budget Board, the statewide fiscal implications could not be determined because the full impact to the infrastructure and applications that support the driver's license program, such as buildings, staff, and information technology resources, could not be known. The Legislative Budget Board estimates that the transition could result in significant costs to the state.

The House-passed version of HB 1 by Zerwas would include a contingency rider in TxDMV's bill pattern related to the driver's license program transfer.