

Tuesday, March 7, 1989

Senator proposes concealed handgun permit

AUSTIN (AP) — Legislation was introduced by a state senator Monday that would allow Texans to obtain licenses to carry concealed handguns.

"This allows people their constitutional right to provide for their own defense," Sen. Ken Armbrister, D-Victoria, said. "We feel that the bill is needed to provide (for) Texans to protect themselves."

Under Armbrister's bill, a license would cost \$125 and be issued to qualified applicants.

To be eligible, a person would have to be a Texas resident, at least 21, not have been con-

victed of a felony, not be under felony indictment, not be a fugitive, not be a habitual drug user or drunk, and not have been convicted of a misdemeanor in the three preceding years.

"We are making an honest attempt to isolate for licensure those individuals who have displayed through their past that they are a safe bet, that they are not a risk to the general citizenry, that they would be an aid in case of problems and trouble to themselves and people that are around them," Armbrister said.

The bill also would require that applicants complete a handgun proficiency course, with

both written and shooting tests.

It would allow law enforcement agencies to utilize "local knowledge" to submit evidence that an otherwise qualified applicant not be given a license due to prior activities, Armbrister said.

The bill would make it a violation to carry a handgun at schools, polling places on election days, courts, taverns, secured areas of airports, sporting events and meetings of governing bodies, including the Legislature.

The senator said his bill would have no effect on the sale or purchase of handguns.

Under current law, concealed weapons are

restricted to police or others, such as licensed investigators. Concealed weapons also can be possessed by travelers or those on hunting or fishing trips.

Armbrister said the current law is vague in many respects. He said people in rural areas, especially, have voiced the desire for such a law.

"These are not the individuals that are shooting up schools," he said. "That person could not qualify for this licensure. This is not (for) the people that are in the penitentiary. They could not qualify for this license."

Continental won't support Eastern strike

HOUSTON (AP) — Continental Airlines employees, some of whom say they earn less than their counterparts at troubled sister carrier Eastern Airlines, showed little sympathy Monday for striking Eastern workers.

And pilots for the Houston-based airline, itself the target of wage cuts and job actions during a tumultuous 1983 reorganization under Texas Air Corp. Chairman Frank Lorenzo, predict their equals at Eastern will suffer for honoring picket lines.

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Budget writers question Clements revenue-raiser

AUSTIN (AP) — House budget writers Monday questioned a move to raise \$1.2 billion through "bookkeeping measures" and wanted to know if Gov. Bill Clements supports the plan.

"We're going to make tough votes and do things our constituents are probably not going to understand," Rep. Ric Williamson, D-Weatherford, said.

Rep. Debra Danburg, D-Houston, said in her conversations with the governor's staff about trying to raise additional revenues, "The only thing they'll say is not taxes."

The bill, by Rep. James Hury, D-Galveston, would allow the state comptroller to transfer reserves from more than 200 special funds on the last day of the next biennium and return the funds within days.

This "paper transfer" would raise the estimate of available revenue — which lawmakers use as a budget ceiling — by \$733 million.

"I think his (Clements) staff will verify he would be in favor of actively pursuing this as a way of dealing with the situation," Jack Roberts, chief deputy comptroller, said.

Another major piece of the plan would be to delay state payments to the retired teachers'

pension fund. This would provide lawmakers with another \$200 million.

Hury, chairman of the House tax writing committee, told members of the Appropriations Committee the proposals were needed to maintain the current level of state services for the two-year budget period beginning Sept. 1.

"If all or part of this money does not get provided to that revenue, we are faced with the daily issues that you deal with, that is where is it going to be cut, or the daily issues that I deal with: taxes," Hury said.

Hury and Roberts said delaying payments to the Teacher Retirement System trust fund would not affect pensions, but would cost the system about \$1.3 billion in interest. They said this amount would be replaced through a direct appropriation.

Rep. Betty Denton, D-Waco, said many retired teachers believe the state is "messing around" with their trust fund.

"There is a definite fear," she said.

Later, Hury said delaying payments could be dropped from the bill since Clements last week signed a franchise tax bill that will provide the state with approximately \$270 million.

High court lets stand Texas law allowing corporal punishment

WASHINGTON (AP) — The U.S. Supreme Court left unresolved Monday whether public school students enjoy any constitutional protection against paddling or other corporal punishment by teachers and administrators.

Without comment, the justices let stand a Texas law that allows the use of all necessary corporal punishment, short of deadly force, in the state's public schools.

The case the justices considered originated in Jacksonville, where a 5-year-old girl and a 6-year-old girl were paddled twice — once by their school principal and once by their teacher.

The 5th U.S. Circuit Court of Appeals upheld the Texas law in dismissing a lawsuit filed in behalf of the two kindergarten girls paddled severely for "snickering."

Other federal appeals courts have made it easier to win such suits. For example, the 10th U.S. Circuit Court of Appeals has ruled in a New Mexico case that, "at some degree of excessiveness or cruelty," such punishment violates constitutional rights.

In 1977 the justices ruled that public school disciplinary measures involving physical force never can amount to the "cruel and unusual punishment" banned by the Constitution's Eighth Amendment.

The decision barred students from suing teachers and school administrators in federal court over alleged Eighth Amendment violations, but left them free to sue in state courts under state laws.

However, in the 1977 decision the court said it was leaving undecided whether corporal punishment ever may violate "substantive rights under the (14th Amendment's) due process clause."

The case acted on Monday came from Jacksonville, where on May 6, 1987, Crystal Cunningham, 5, and Ashley Johnson, 6, were paddled.

Mary Sue Bruno, the principal at Westside Kindergarten School, saw the two girls snickering in the hall, and gave each child two swats on the buttocks with a wooden paddle.

When the girls returned to the classroom, teacher Rosa Cook saw them still snickering. She took the girls into the hallway and gave each three more swats across the buttocks with a wooden paddle.

Each girl missed six days of school. The lawsuit filed in their behalf said the reason for their absence was "severe pain" and fear over returning to school.

Both girls, according to court documents, were taken to a child welfare office where social workers who examined the paddling bruises said the two had been subjected to child abuse.

The federal lawsuit, seeking monetary damages, alleged that Bruno, Cook and other school officials violated the girls' constitutional rights with conduct "excessive, brutal, disproportionate to the circumstances (and) shocking to the conscience."

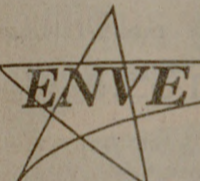
The suit said the paddlings violated the girls' due-process and equal-protection rights.

A federal trial judge threw out the suit, relying on past 5th Circuit court rulings that corporal punishment generally does not violate any constitutional rights.

The 5th Circuit upheld the dismissal last Oct. 26.

In seeking Supreme Court review, lawyers for the girls cited Department of Education studies indicating that 30,000 American schoolchildren are physically injured each year "because of the infliction of corporal punishment to a degree that requires medical treatment."

The appeal said those studies estimate at "at least 100,000 children develop emotional and learning disabilities from excessive and inappropriate school punishment each year."



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