

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

FIFTY-SECOND DAY — TUESDAY, APRIL 10, 2007

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 352).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — Moreno; Vaught.

Absent — Bonnen.

The invocation was offered by Dr. Kermit Bridges, Southwestern Assemblies of God University, Waxahachie, as follows:

Our Heavenly Father, this afternoon it is my privilege to pray for the membership of the Texas House of Representatives because your word urges believers to offer "prayers, intercession, and thanksgiving. . .for all those in authority."

First of all, let me thank you for each member of this house who has sought and embraced the mantle of leadership and has accepted the responsibility to be careful stewards over the resources of this state. I pray that each one will continually be reminded that this state's greatest resource is its people; therefore, I pray that each member shall daily make personal the prayer of Solomon—"Give me wisdom and knowledge, that I may lead this people."

Like the leadership of Issachar in ancient Israel, may the membership of this house have an understanding of the times in which we live so that they know what Texas ought to do. May they continually seek and be granted the wisdom and knowledge needed to legislate fairly, because your word declares that in so doing they will win favor and a good name in the sight of God and man. Lord, I ask that you would bless each member because of their service on behalf of our state. Bless their families. Grant them good health and may this be a productive week of legislative work. In the name of your son, and our Savior, Jesus Christ, we pray. Amen.

The speaker recognized Representative Elkins who led the house in the pledges of allegiance to the United States and Texas flags.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Delisi who presented Dr. Gil Grimes of Troy as the "Doctor for the Day."

The house welcomed Dr. Grimes and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### **LEAVES OF ABSENCE GRANTED**

The following members were granted leaves of absence for today because of illness:

Moreno on motion of Escobar.

Vaught on motion of Harless.

(Miller in the chair)

### **HR 623 - READ**

**(by Aycock)**

The chair laid out and had read the following previously adopted resolution:

**HR 623**, Commending Sergeant Troy Galvan for his exemplary act of heroism.

### **HR 623 - MOTION TO ADD NAMES**

On motion of Representative Geren, the names of all the members of the house were added to **HR 623** as signers thereof.

### **HR 624 - READ**

**(by Aycock, et al.)**

The chair laid out and had read the following previously adopted resolution:

**HR 624**, Commending Major John Oh for his exemplary actions in the midst of a critical medical event.

### **HR 624 - MOTION TO ADD NAMES**

On motion of Representative Geren, the names of all the members of the house were added to **HR 624** as signers thereof.

**HR 625 - READ**  
**(by Aycock, et al.)**

The chair laid out and had read the following previously adopted resolution:

**HR 625**, Commending Lieutenant Colonel William Brock for his significant contribution to the life-saving surgery of a wounded soldier.

**HR 625 - MOTION TO ADD NAMES**

On motion of Representative Geren, the names of all the members of the house were added to **HR 625** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Aycock who introduced Sergeant Troy Galvan, his wife, and Major John Oh.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**HCR 189 - ADOPTED**  
**(by Hughes)**

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HCR 189**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 189**, Recognizing April 10, 2007, as Upshur County Day at the State Capitol.

**HCR 189** was read and was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Hughes who introduced a delegation from Upshur County.

**HCR 153 - READ**  
**(by Rose)**

The chair laid out and had read the following previously adopted resolution:

**HCR 153**, Honoring Emma Jean Schulle on her retirement as the Caldwell County district clerk.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Rose who introduced Emma Jean Schulle, her husband Clarence, and Caldwell County clerks.

**POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

**CSHB 855 ON SECOND READING****(by Delisi, Rose, Gattis, et al.)**

**CSHB 855**, A bill to be entitled An Act relating to the prosecution of the offense of failure to identify.

**CSHB 855** was read second time on April 4, postponed until April 5, and was again postponed until 3 p.m. today.

**Amendment No. 1**

Representative Dutton offered the following amendment to **CSHB 855**:

Amend **CSHB 855** as follows:

(1) On page 1, line 4, strike "Section 38.02(a)" and substitute "Section 38.02".

(2) On page 1, line 4, between "amended" and "to", insert "by amending Subsection (a) and adding Subsection (f)".

(3) On page 1, between lines 11 and 12, insert the following:

(f) It is an affirmative defense to prosecution under this section that the actor does not understand the peace officer's request for information because the actor lacks a basic understanding of the language used by the peace officer.

Amendment No. 1 was adopted.

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of family business:

Martinez Fischer on motion of Veasey.

The following member was granted leave of absence for the remainder of today because of illness:

Bailey on motion of Gonzalez Toureilles.

**CSHB 855 - (consideration continued)****Amendment No. 2**

Representative Dutton offered the following amendment to **CSHB 855**:

Amend **CSHB 855** as follows:

(1) On page 1, line 4, strike "Section 38.02(a)" and substitute "Section 38.02".

(2) On page 1, line 4, between "amended" and "to", insert "by amending Subsection (a) and adding Subsection (f)".

(3) On page 1, between lines 11 and 12, insert the following:

(f) A peace officer who is charging a person with committing a Class C misdemeanor under this section shall, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Dutton offered the following amendment to **CSHB 855**:

Amend **CSHB 855** (House Committee Printing) as follows:

(1) On page one, strike the text on line 10.

(2) On page one, line 11, strike the period and substitute "; and".

(3) On page one, between lines 11 and 12, insert the following:

(3) informed the person that refusal to give the person's name, residence address, or date of birth will result in the person's arrest.

Amendment No. 3 was adopted.

### **Amendment No. 4**

Representative Dutton offered the following amendment to **CSHB 855**:

Amend **CSHB 855** by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1351 to read as follows:

Art. 2.1351. REPORT RELATING TO CERTAIN ARRESTS. (a) Not later than September 1 of each year, each state and local law enforcement agency shall report to the Department of Public Safety the number of arrests under Section 38.02, Penal Code, made by officers employed by the agency during the preceding 12 months. The report must indicate in aggregate terms the race or ethnicity of individuals arrested for an offense under Section 38.02.

(b) The Department of Public Safety shall prepare a report based on the information received by the department under Subsection (a) and provide a copy of the report, not later than January 1 of each year, to the governor, the lieutenant governor, and the speaker of the house of representatives.

Amendment No. 4 was adopted.

### **Amendment No. 5**

Representative Thompson offered the following amendment to **CSHB 855**:

Amend **CSHB 855** (house committee report), on page 1, line 9, between "or" and "lawfully", by inserting "on reasonable suspicion of commission of an offense,".

Representative Delisi moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 353): 77 Yeas, 63 Nays, 2 Present, not voting.

Yeas — Anderson; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Farabee; Flynn; Garcia; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Laubenberg; Macias; Madden; McReynolds; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zerwas.

Nays — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Hughes; Isett; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; McCall; McClendon; Menendez; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Rodriguez; Rose; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Zedler.

Present, not voting — Mr. Speaker; Miller(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Aycock; Bonnen; Latham; Mowery.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 353. I intended to vote no.

Garcia

I was shown voting no on Record No. 353. I intended to vote yes.

Rose

#### CSHB 855 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 855** under Rule 4, Section 18(a) of the House Rules on the grounds that the committee minutes are incomplete.

(Speaker in the chair)

The point of order was withdrawn.

Representative Delisi moved to postpone consideration of **CSHB 855** until the end of today's calendar.

The motion prevailed.

(Goolsby in the chair)

#### MAJOR STATE CALENDAR HOUSE BILLS SECOND READING

The following bills were laid before the house and read second time:

**CSHB 1892 ON SECOND READING**

(by W. Smith, Dutton, Hartnett, Creighton, C. Howard, et al.)

**CSHB 1892**, A bill to be entitled An Act relating to the authority of certain counties and other entities with respect to certain transportation projects.

**CSHB 1892 - POINT OF ORDER**

Representative Krusee raised a point of order against further consideration of **CSHB 1892** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

(Speaker in the chair)

The speaker overruled the point of order, and submitted the following statement:

The chair overrules the point of order on the grounds that the bill contains a summary analysis which fulfills the purpose and requirements of Rule 4, Section 32(c) under long-standing house precedent. The point of order is respectfully overruled.

**Amendment No. 1**

Representatives Kolkhorst, Pickett, Quintanilla, Harless, Harper-Brown, Crownover, Anderson, Leibowitz, Hochberg, Keffer, Straus, W. Smith, Laubenberg, Macias, Gattis, Murphy, Otto, and Zerwas offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following appropriately numbered SECTION of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.210 to read as follows:

Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this section:

(1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project:

(A) is a part of the state highway system; or

(B) is subject to the jurisdiction of the department.

(2) "Toll project entity" means a public entity authorized by law to acquire, design, construct, finance, operate, or maintain a toll project, including:

(A) the department;

(B) a regional tollway authority;

(C) a regional mobility authority; or

(D) a county.

(b) A comprehensive development agreement entered into with a private participant by a toll project entity on or after the effective date of this subsection for the acquisition, design, construction, financing, operation, or maintenance of a toll project may not contain a provision permitting the private participant to operate the toll project or collect revenue from the toll project, regardless of

whether the private participant operates the toll project or collects the revenue itself or engages a subcontractor or other entity to operate the toll project or collect the revenue.

(c) On or after the effective date of this subsection, a toll project entity may not sell or enter into a contract to sell a toll project of the entity to a private entity.

(d) A legislative study committee is created. The committee is composed of nine members, appointed as follows:

(1) three members appointed by the lieutenant governor;

(2) three members appointed by the speaker of the house of representatives; and

(3) three members appointed by the governor.

(e) The legislative study committee shall select a presiding officer from among its members and conduct public hearings and study the public policy implications of including in a comprehensive development agreement entered into by a toll project entity with a private participant in connection with a toll project a provision that permits the private participant to operate and collect revenue from the toll project. In addition, the committee shall examine the public policy implications of selling an existing and operating toll project to a private entity.

(f) Not later than December 1, 2008, the legislative study committee shall:

(1) prepare a written report summarizing:

(A) any hearings conducted by the committee;

(B) any legislation proposed by the committee;

(C) the committee's recommendations for safeguards and protections of the public's interest when a contract for the sale of a toll project to a private entity is entered into; and

(D) any other findings or recommendations of the committee; and

(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(g) On December 31, 2008, the legislative study committee created under this section is abolished.

(h) This section expires September 1, 2009.

(Chisum in the chair)

### **Amendment No. 1 - Point of Order**

Representative Krusee raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 3 of the House Rules on the grounds that the amendment would change the original purpose of the bill.

(Speaker in the chair)

(Bonnen now present)

The speaker overruled the point of order, and submitted the following statement:

The chair overrules the point of order. The chair has consistently stated that the threshold for sustaining a point of order for a violation of the original purpose clause is very high.

The amendment at issue modifies the procedures implementing toll road projects and does not change the purpose of the bill, which by its intent proscribes additional restrictions for using comprehensive development agreements. The point of order is respectfully overruled.

### **Amendment No. 2**

Representative Truitt offered the following amendment to Amendment No. 1:

Amend the Kolkhorst amendment to **CSHB 1892** by adding the following appropriately numbered Subsection to Section 223.210, Transportation Code, as added by the amendment, and relettering subsequent subsections of that section accordingly:

( ) This section does not apply to a comprehensive development agreement for a managed lane facility toll project the major portion of which is located inside the boundaries of a regional tollway authority created after August 31, 1997, and for which the department has issued a request for qualifications before the effective date of this subsection. Before the department executes a final contract for a project described by this subsection, the commissioners court for any county in which a majority of the project is located must pass a supporting resolution that:

(1) acknowledges that the contract may contain penalties for the construction of future competing transportation projects built at any time during the life of the agreement; and

(2) states that the commissioners court is aware of and agrees to pay the penalties if any are rendered.

Amendment No. 2 was adopted. (The vote was reconsidered later today, and Amendment No. 2 was withdrawn.)

### **Amendment No. 3**

Representative Geren offered the following amendment to Amendment No. 1:

Amend the Kolkhorst amendment to **CSHB 1892**, on page 2 of the amendment, between lines 5 and 6, by inserting the following:

(c-1) Subsections (b) and (c) do not apply to any project within the boundaries of a regional tollway authority created after September 1, 1997.

Amendment No. 3 was withdrawn.

### **Amendment No. 4**

Representative Phillips offered the following amendment to Amendment No. 1:

Amend the Kolkhorst amendment to **CSHB 1892** as follows:

(1) On page 1 of the amendment, strike lines 18 through 20 and substitute the following:

(B) a regional tollway authority; or  
(C) a regional mobility authority.

(2) On page 2 of the amendment, between lines 5 and 6, insert the following:  
(c-1) Subsections (b) and (c) do not apply to a county.

**CSHB 1892 - POINT OF ORDER**

Representative Hill raised a point of order against further consideration of **CSHB 1892** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

(Branch in the chair)

The chair overruled the point of order, and submitted the following statement:

Representative Hill raises a point of order against further consideration of **CSHB 1892** under Rule 4, Section 32. The point of order is respectfully overruled.

Representative Pickett moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 354): 120 Yeas, 22 Nays, 2 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jones; Keffer; King, P.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Christian; Cook, B.; Deshotel; Escobar; Flores; Garcia; Giddings; Gonzales; Hamilton; Hill; Isett; Jackson; Krusee; Kuempel; Merritt; Parker; Patrick; Phillips; Pierson; Truitt.

Present, not voting — Mr. Speaker; Branch(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — King, S.; King, T.

### STATEMENTS OF VOTE

When Record No. 354 was taken, my vote failed to register. I would have voted yes.

S. King

I was shown voting yes on Record No. 354. I intended to vote no.

Lucio

I was shown voting yes on Record No. 354. I intended to vote no.

Peña

#### Amendment No. 5

Representative Phillips offered the following amendment to Amendment No. 1:

Amend the Kolkhorst amendment to **CSHB 1892** as follows:

(1) On page 1 of the amendment, strike lines 18 through 20 and substitute the following:

(B) a regional tollway authority; or

(C) a county.

(2) On page 2 of the amendment, between lines 5 and 6, insert the following:

(c-1) Subsections (b) and (c) do not apply to a regional mobility authority.

Representative Kolkhorst moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 355): 112 Yeas, 26 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jones; Keffer; King, P.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Ortiz; Otto; Paxton; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Thompson; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Anchia; Christian; Cook, B.; Corte; Deshotel; Driver; England; Flores; Garcia; Gonzales; Hardcastle; Hill; Isett; Jackson; Kuempel; Lucio; Merritt; Orr; Parker; Patrick; Peña; Phillips; Pierson; Swinford; Truitt; Zedler.

Present, not voting — Mr. Speaker; Branch(C); Howard, C.

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Davis, Y.; Guillen; King, S.; Krusee; Oliveira.

### STATEMENTS OF VOTE

When Record No. 355 was taken, my vote failed to register. I would have voted yes.

Guillen

When Record No. 355 was taken, my vote failed to register. I would have voted yes.

S. King

I was shown voting no on Record No. 355. I intended to vote yes.

Zedler

### Amendment No. 2 - Vote Reconsidered

Representative Truitt moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

### Amendment No. 6

Representative Truitt offered the following amendment to Amendment No. 1:

Amend the Kolkhorst amendment to **CSHB 1892** by adding the following appropriately numbered Subsection to Section 223.210, Transportation Code, as added by the amendment, and relettering subsequent subsections of that section accordingly:

( ) This section does not apply to a comprehensive development agreement for a managed lane facility toll project the major portion of which is located inside the boundaries of a regional tollway authority created on September 1, 1997, and for which the department has issued a request for qualifications before the effective date of this subsection. Before the department executes a final contract for a project described by this subsection, the commissioners court for any county in which a majority of the project is located must pass a supporting resolution that:

(1) acknowledges that the contract may contain penalties for the construction of future competing transportation projects built at any time during the life of the agreement; and

(2) states that the commissioners court is aware of and agrees to pay the penalties if any are rendered.

Amendment No. 6 was adopted.

**AMENDMENT NO. 6 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE LEIBOWITZ: Ma'am, just to make absolutely sure, could you kindly confirm for us that the thrust of your amendment in no way touches Bexar County, nor any contiguous counties to Bexar County?

REPRESENTATIVE TRUITT: That is correct.

**REMARKS ORDERED PRINTED**

Representative Leibowitz moved to print remarks between Representative Truitt and Representative Leibowitz.

The motion prevailed.

**Amendment No. 7**

Representative Geren offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Kolkhorst to **CSHB 1892** on page 2 of the amendment, between lines 5 and 6, by inserting the following:

(c-1) Subsections (b) and (c) do not apply to any project within the boundaries of a regional tollway authority created on September 1, 1997.

(c-2) To the extent that Subsection (c-1) conflicts with Section 228.012, Section 228.012 shall govern.

Amendment No. 7 was adopted.

A record vote was requested.

Amendment No. 1, as amended, was adopted by (Record 356): 134 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Deshotel; Escobar; Krusee; Lucio; Merritt.

Present, not voting — Mr. Speaker; Branch(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Davis, Y.; Gallego; Hill; King, S.; Oliveira.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 356. I intended to vote yes.

Escobar

When Record No. 356 was taken, my vote failed to register. I would have voted yes.

Gallego

When Record No. 356 was taken, my vote failed to register. I would have voted yes.

S. King

### Amendment No. 8

Representative Krusee offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following new SECTION, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.009 to read as follows:

Sec. 284.009. APPLICABILITY OF LAWS. (a) The following laws apply to the development, planning, design, construction, maintenance, or operation by a county of a roadway that is part of the county road system, including a project under this chapter:

- (1) Section 201.101;
- (2) Section 201.102;
- (3) Section 201.107;
- (4) Section 201.108;
- (5) Section 201.2035;
- (6) Section 201.401;
- (7) Section 201.402;
- (8) Section 201.404;
- (9) Section 201.602;
- (10) Section 201.604;
- (11) Section 201.607;
- (12) Section 201.608;
- (13) Section 201.615;
- (14) Section 201.702;
- (15) Section 201.801;
- (16) Section 201.802;
- (17) Section 203.021;
- (18) Section 203.022;
- (19) Section 203.021;
- (20) Subchapter A, Chapter 223
- (21) Section 223.041;

(22) Section 223.042;

(23) Section 223.045;

(24) Section 223.046; and

(25) Subchapter A, Chapter 2254, Government Code

(b) To the extent of a conflict between the laws described in Subsection (a) and any other law applicable to a roadway that is part of a county road system, the laws described in Subsection (a) prevail.

(c) For the purpose of applying the laws described in Subsection (a), "commission" shall mean the commissioners court of a county and "department" shall mean a county acting under this chapter.

Representative W. Smith moved to table Amendment No. 8.

(Speaker in the chair)

A record vote was requested.

The motion to table prevailed (Record 357): 107 Yeas, 33 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bohac; Bolton; Bonnen; Branch; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Dukes; Dutton; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Berman; Brown, B.; Brown, F.; Chavez; Cook, R.; Corte; Davis, Y.; Deshotel; Driver; Dunnam; England; Gallego; Geren; Giddings; Gonzales; Hilderbran; Hill; Isett; Jackson; Krusee; Kuempel; Lucio; McClendon; Merritt; Orr; Peña; Phillips; Pierson; Swinford; Thompson; Truitt; Turner.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Cook, B.; Escobar; Hardcastle; Jones; O'Day.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 357. I intended to vote no.

Coleman

I was shown voting yes on Record No. 357. I intended to vote no.

Eiland

When Record No. 357 was taken, I was in the house but away from my desk. I would have voted yes.

Escobar

When Record No. 357 was taken, I was in the house but away from my desk. I would have voted yes.

O'Day

I was shown voting yes on Record No. 357. I intended to vote no.

T. Smith

### **Amendment No. 9**

Representative Truitt offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892**, on page 1, line 13, between "attributable" and [region], insert "or a department district adjacent to that district".

Amendment No. 9 was adopted.

### **Amendment No. 10**

Representative Krusee offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** as follows:

(1) On page 6, strike line 9 and substitute "is amended by adding Sections 284.0031, 284.0032, and 284.0033 and amending".

(2) On page 7, between lines 15 and 16, insert the following:

Sec. 284.0033. PROHIBITION AGAINST LIMITING OR PROHIBITING CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive development agreement entered into by a county may not contain a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project by the county or another governmental entity, including by a private entity under a contract with the county or another governmental entity.

(b) Except as provided in Subsection (c), a comprehensive development agreement may contain a provision authorizing the county to compensate the private participant in the agreement for the loss of toll revenues resulting from the construction by the county of a highway project located within an area that extends up to 5 miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any.

(c) A comprehensive development agreement may not require the county to provide compensation for the construction of:

(1) any highway project contained in the state transportation plan or a transportation plan of a metropolitan planning organization in effect on the effective date of the agreement;

(2) any work or improvements on a highway project necessary for improved safety, maintenance or operational purposes; or

(3) any high occupancy vehicle exclusive lane addition or other work on any highway project that is required by an environmental regulatory agency.

(d) The private participant shall have the burden of proving any loss of toll revenue resulting from the construction of a highway project described in Subsection (b).

(e) The private participant shall provide compensation to the county in the amount of any increase in toll revenues received by the private participant that is attributable to the construction of a highway project described in Subsection (b), less the private participant's increased operating and maintenance costs attributable to the highway project, if any.

(f) In this section, "transportation project" has the meaning assigned by Section 370.003.

Representative W. Smith moved to table Amendment No. 10.

A record vote was requested.

The motion to table prevailed by (Record 358): 111 Yeas, 31 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycocock; Berman; Bohac; Bolton; Bonnen; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Dukes; Dutton; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Murphy; Noriega; O'Day; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Talton; Taylor; Thompson; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anchia; Branch; Brown, B.; Brown, F.; Davis, Y.; Deshotel; Driver; Dunnam; Eiland; England; Geren; Giddings; Guillen; Hamilton; Hilderbran; Hill; Isett; Jackson; Krusee; Kuempel; Martinez; McClendon; Merritt; Orr; Paxton; Peña; Phillips; Pierson; Smithee; Swinford; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Corte; Mowery; Naishtat.

### **Amendment No. 11**

Representative Van Arsdale offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by inserting the following language on page 7, between lines 7 and 8:

(e) Notwithstanding any other law, an authority created pursuant to Chapter 451, Transportation Code, that is located primarily in a county with a population of more than 3.3 million to which this chapter applies and in which the voters have authorized the dedication of a portion of its sales and use tax revenue for street improvements and mobility projects within the authority's service area must account for the entire amount of that liability on its financial statements in accordance with generally accepted accounting principles.

Amendment No. 11 was adopted.

### **Amendment No. 12**

Representative Krusee offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** on page 9, between lines 17 and 18, by inserting a new section of the bill to read as follows and renumbering the sections of the bill accordingly:

SECTION 2. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.010 to read as follows:

Sec. 284.010. CONTRACTOR CONTRIBUTIONS PROHIBITED. A person who enters into a contract with a county under this chapter may not make a political contribution to a person who is a commissioner or county judge of the county or who is candidate for the office of commissioner or county judge of the county.

Amendment No. 12 was adopted.

### **Amendment No. 13**

Representative Krusee offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following new SECTION, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.0091 to read as follows:

Sec. 284.0091. AUDIT BY STATE AUDITOR. The accounts and records of a county relating to a roadway that is part of the county road system, including a project under this chapter, are subject to annual audits by the state auditor in accordance with Chapter 321, Government Code.

Representative W. Smith moved to table Amendment No. 13.

A record vote was requested.

The motion to table was lost by (Record 359): 66 Yeas, 71 Nays, 3 Present, not voting.

Yeas — Aycock; Burnam; Callegari; Chavez; Chisum; Coleman; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Dutton; Eiland; Eissler; Elkins; Farrar; Flores; Flynn; Gallego; Gattis; Gonzalez Toureilles; Haggerty; Harper-Brown; Hartnett; Heflin; Hernandez; Hochberg; Hodge; Howard, C.; Howard, D.; Hughes; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Macias; Mallory Caraway; Miles; Miller; Morrison; Murphy; Noriega; Oliveira; Olivo;

Patrick; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Smith, W.; Talton; Taylor; Thompson; Turner; Van Arsdale; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Anchia; Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Christian; Cohen; Cook, B.; Cook, R.; Corte; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; England; Escobar; Farabee; Farias; Frost; Garcia; Geren; Giddings; Gonzales; Goolsby; Hamilton; Hancock; Hardcastle; Herrero; Hilderbran; Hill; Homer; Hopson; Isett; Jackson; Jones; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Madden; Martinez; McCall; McClendon; McReynolds; Merritt; Mowery; Naishtat; O'Day; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Ritter; Rose; Smith, T.; Solomons; Strama; Swinford; Truitt; Veasey.

Present, not voting — Mr. Speaker(C); Castro; Harless.

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Alonzo; Guillen; Menendez; Smithee; Straus; Villarreal.

### STATEMENTS OF VOTE

When Record No. 359 was taken, my vote failed to register. I would have voted yes.

Guillen

When Record No. 359 was taken, I was in the house but away from my desk. I would have voted no.

Menendez

### BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 19).

(Solomons in the chair)

### CSHB 1892 - (consideration continued)

#### Amendment No. 14

Representative Krusee offered the following amendment to Amendment No. 13:

Amend Floor Amendment No. 13 to **CSHB 1892**, by Krusee, on lines 7 and 8 of the amendment, by striking "a roadway that is part of the county road system, including a project under this chapter" and substituting "a project under this chapter located in a county that has a population of more than 3.4 million and is within 100 miles from the Gulf of Mexico".

Amendment No. 14 was adopted.

A record vote was requested.

Amendment No. 13, as amended, failed of adoption by (Record 360): 46 Yeas, 92 Nays, 2 Present, not voting.

Yeas — Anchia; Anderson; Berman; Bonnen; Branch; Brown, B.; Burnam; Crabb; Creighton; Deshotel; Driver; Dukes; Dunnam; Eissler; Elkins; England; Escobar; Farabee; Flynn; Frost; Gallego; Garcia; Goolsby; Hamilton; Hardcastle; Hill; Hochberg; Homer; Jackson; Krusee; Kuempel; Madden; Martinez; McClendon; Merritt; Mowery; O'Day; Olivo; Peña; Phillips; Pitts; Rose; Straus; Swinford; Truitt; Zedler.

Nays — Allen; Alonzo; Aycock; Bohac; Bolton; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, R.; Corte; Crownover; Darby; Davis, J.; Delisi; Dutton; Eiland; Farias; Farrar; Flores; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; McReynolds; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Strama; Talton; Taylor; Thompson; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Solomons(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Cook, B.; Davis, Y.; Jones; Latham; McCall; Menendez.

#### STATEMENTS OF VOTE

When Record No. 360 was taken, my vote failed to register. I would have voted no.

Menendez

I was shown voting yes on Record No. 360. I intended to vote no.

O'Day

I was shown voting yes on Record No. 360. I intended to vote no.

Olivo

#### Amendment No. 15

Representative Pickett offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 370.031(c), Transportation Code, is repealed.

Amendment No. 15 was adopted.

#### Amendment No. 16

Representative Krusee offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following new SECTION, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.0092 to read as follows:

Sec. 284.0092. AUDIT BY FEDERAL HIGHWAY ADMINISTRATION. The accounts and records of a county relating to a roadway that is part of the county road system, including a project under this chapter, are subject to audit by the Federal Highway Administration as deemed necessary by that agency.

#### **Amendment No. 17**

Representative Krusee offered the following amendment to Amendment No. 16:

Amend Floor Amendment No. 16 to **CSHB 1892**, by Krusee, on lines 8 and 9 of the amendment, by striking "a roadway that is part of the county road system, including a project under this chapter" and substituting "a project under this chapter located in a county that has a population of more than 3.4 million and is within 100 miles from the Gulf of Mexico".

Amendment No. 17 was adopted.

Amendment No. 16, as amended, was adopted.

#### **Amendment No. 18**

Representative Hartnett offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.012 to read as follows:

Sec. 228.012. TOLL PROJECTS WITHIN BOUNDARIES OF REGIONAL TOLLWAY AUTHORITY. (a) This section applies only to a toll project located within the boundaries of a regional tollway authority under Chapter 366.

(b) The tollway authority is the entity that has primary responsibility for the financing, construction, and operation of a toll project located within the boundaries of the authority.

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the tollway authority in the financing, construction, and operation of a toll project located within the boundaries of the authority by allowing the authority to use highway right-of-way owned by the department and to access the state highway system.

(d) Subsections (b) and (c) do not limit the authority of the commission or the department to participate in the cost of acquiring, constructing, maintaining, or operating a turnpike project of the tollway authority under Chapter 366.

(e) Before the commission or the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located within the boundaries of a tollway authority, the

commission or department shall provide the authority the first option to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority:

(1) on terms agreeable to the authority, without the requirement of any payment to the commission or the department; and

(2) in a manner determined by the authority to be consistent with the practices and procedures by which the authority finances, constructs, or operates a project.

(f) An agreement entered into by the tollway authority and the commission or the department in connection with a project under Chapter 366 that is financed, constructed, or operated by the authority and that is on or directly connected to the state highway system may not require the authority to make any payments to the commission or the department.

(g) An agreement entered into by the tollway authority and the commission or department in connection with a project under Chapter 366 that is financed, constructed, or operated by the authority and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

(h) Before a final contract execution by the department for any comprehensive development agreement project, the commissioners court for any county in which a majority of the project is located must pass a supporting resolution.

(i) Once the authority or regional transportation council has received notice from the department relating to a toll project, the authority has 90 days to exercise the first option to finance, construct, or operate, as applicable, the toll project.

Amendment No. 18 was adopted.

### **Amendment No. 19**

Representative Hartnett offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Notwithstanding any other provision of this Act, Section 228.012, Transportation Code, as added by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 228.012, Transportation Code, takes effect September 1, 2007.

Amendment No. 19 was adopted.

### **Amendment No. 20**

Representative Hill offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 284.002, Transportation Code, is amended to read as follows:

Sec. 284.002. APPLICABILITY OF CHAPTER ~~[TO CERTAIN COUNTIES AND LOCAL GOVERNMENT CORPORATIONS]~~. (a) Except as provided by Subsection (b), this chapter applies only to a county that [-]

~~[(1)] has a population of 250,000 [50,000] or more [and borders the Gulf of Mexico or a bay or inlet opening into the gulf;~~

~~[-(2) has a population of 1.5 million or more;~~

~~[-(3) is adjacent to a county that has a population of 1.5 million or more;~~

or

~~[-(4) borders the United Mexican States].~~

(b) A local government corporation created under Chapter 431 in a county to which this chapter applies has the same powers as a county acting under this chapter, except as provided by Chapter 362.

(Speaker in the chair)

**Amendment No. 21**

Representative Phillips offered the following amendment to Amendment No. 20:

Amend Amendment No. 20 by Hill to **CSHB 1892** on line 9 of the amendment by striking "250,000" and substituting "10,000".

Amendment No. 21 was adopted.

Amendment No. 20, as amended, was adopted.

**Amendment No. 22**

Representatives Bohac, Anchia, Madden, and Strama offered the following amendment to **CSHB 1892**:

Amend **CSHB 1892** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 371 to read as follows:

CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

Sec. 371.001. VEHICLES DISPLAYING "HYBRID VEHICLE" INSIGNIA. (a) In this section "toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:

(1) a part of the state highway system;

(2) subject to the jurisdiction of the department; or

(3) constructed or operated by the department or another entity authorized to construct or operate a toll project.

(b) A motor vehicle displaying the "hybrid vehicle" insignia authorized by Section 502.1861 in an easily readable location on the back of the vehicle may use a high occupancy vehicle lane located on a toll project regardless of the number of occupants in the vehicle unless the use would impair the receipt of federal transit funds.

SECTION \_\_\_\_\_. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1861 to read as follows:

Sec. 502.1861. "HYBRID VEHICLE" INSIGNIA FOR CERTAIN MOTOR VEHICLES. (a) At the time of registration or reregistration of the motor vehicle, the department shall issue a specially designed "hybrid vehicle" insignia for a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and from a rechargeable energy storage system.

(b) The department shall issue a "hybrid vehicle" insignia under this section without the payment of any additional fee to a person who:

(1) applies to the department on a form provided by the department;  
and

(2) submits proof that the motor vehicle being registered is a vehicle described by Subsection (a).

Representative W. Smith moved to table Amendment No. 22.

A record vote was requested.

The motion to table was lost by (Record 361): 50 Yeas, 88 Nays, 1 Present, not voting.

Yeas — Aycock; Bonnen; Callegari; Christian; Crabb; Creighton; Darby; Davis, J.; Flores; Frost; Geren; Guillen; Haggerty; Hamilton; Harless; Harper-Brown; Hartnett; Hopson; King, P.; King, S.; Kolkhorst; Krusee; Macias; Mallory Caraway; Menendez; Merritt; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Puente; Quintanilla; Riddle; Ritter; Smith, W.; Smithee; Solomons; Talton; Turner; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Hancock; Hardcastle; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Madden; Martinez; McCall; McClendon; McReynolds; Miles; Miller; Mowery; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Paxton; Peña; Pierson; Raymond; Rodriguez; Rose; Smith, T.; Strama; Straus; Swinford; Thompson; Truitt; Van Arsdale; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Crownover; Delisi; Dunnam; Gattis; Keffer; King, T.; Taylor.

**STATEMENTS OF VOTE**

When Record No. 361 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

I was shown voting yes on Record No. 361. I intended to vote no.

Guillen

When Record No. 361 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

Amendment No. 22 was adopted.

**CSHB 1892 - REMARKS**

REPRESENTATIVE KRUSEE: Thank you, Mr. Speaker. Thank you, members. You've been real patient. This has been a long day. And I know you've been very frustrated with TxDOT and you've certainly expressed that today. But look, after we passed our bills in 2003 and 2005, a lot of you since then have said, "I didn't really understand what we were doing at the time." So let me just, very quickly, explain exactly what we're doing. Mr. Hill made a good point a minute ago, when he described very succinctly what this bill does. "Notwithstanding any other law, a county may use state highway right-of-way, or access to the state highway system." They can do this regardless, by fiat. This is what Harris County—and now with this bill, all major counties in the state have unfettered access to the state highway system. They can, in effect, seize state highway assets and access anytime they want. TxDOT is prohibited from making rules or policies that prevent it. They are prohibited from making anyone pay for the seizure of a state asset. What does this do?

This applies, not just to Harris County, but it applies to Dallas, to applies to all these places. At least 32 counties, besides Mr. Hill's amendment, which is pretty much everybody. But even Mr. Smith's original bill, 32 counties, what does this do? It creates an encumbrance on all state property. This means, when the state wants to sell bonds, the bond rating agency will look at this and they will see, you can't control the use of your access. You can't control safety. You can't control traffic impact. You can't control air quality. TxDOT is prohibited from any of these things. It's an encumbrance, you won't be able to sell bonds. The state will not be able to sell bonds. You've heard members get up here and say, "this has no effect on this road, it has no effect on that road. . ." 121, I don't see how they do 121 under this. We could not have done State Highway 130 under this. Highway 69, really important to the valley, they need an interstate. The valley is the largest city in the United States not connected to the interstate system. That has tremendous economic opportunity, economic development, consequences. Companies like Toyota that came to San Antonio, they are not going to come to a city that's not on the interstate system. TxDOT has a plan for improving those roads. It can't be done when you encumber those roads in this way. Those are the consequences of this bill.

Tomorrow when you wake up, assuming we ever get out of here and you get to sleep, when you wake up there are going to be a thousand more people in this state, and the day after that, a thousand more people. Every day, a thousand more people. Harris County alone, 300 people a day move to that county. We're a state of 23 million people right now. In the year 2040, we'll be 45 million people. All of those people are going to be living between Houston, Dallas, and San Antonio. That's an area the size of Ohio. Ohio has congestion problems of its own and it's 10 million people. We're going to have 45 million people. How are we going to accomodate all these people—a thousand people a day—when we put a moratorium on building, when we have encumbered all of our state assets for borrowing?

Let me give you two facts about what we have left if these go into effect. Your state taxes. TxDOT will tell you we are going to run out of money to get to cities for new mobility projects, for new highway construction. We're out of money in 2013. Five years. The secretary of transportation was here last week for the United States and told us that the Highway Trust Fund for the United States goes bankrupt in 2009. You're going to see drastic reductions in the amount of money we get for new construction. Before this moratorium is over, the Highway Trust Fund will be bankrupt.

I have no doubt that we're going to pass this bill, but what I'd ask you to do in the coming weeks is to really seriously consider new revenues for TxDOT, so that we can build. If we can't use the private sector, if we can't use bonds, if we can't do toll roads, we do need an increase in the gas tax and it has to be substantial and we do need to get rid of some of the diversions in this state—when we take Fund 6 money and we divert it to other uses. Thank you very much, I appreciate your time.

A record vote was requested.

**CSHB 1892**, as amended, was passed to engrossment by (Record 362): 123 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McReynolds; Menendez; Miller; Morrison; Murphy; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Thompson; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Brown, B.; Chavez; Deshotel; Driver; Flores; Hilderbran; Hill; Isett; Jones; Krusee; Kuempel; McClendon; Merritt; Patrick; Peña; Swinford; Truitt.

Present, not voting — Mr. Speaker(C); Howard, C.

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Guillen; Miles; Mowery; Naishtat.

#### **STATEMENTS OF VOTE**

When Record No. 362 was taken, my vote failed to register. I would have voted yes.

Guillen

I was shown voting no on Record No. 362. I intended to vote yes.

Hilderbran

#### **CSHB 1332 ON SECOND READING (by Chisum, Geren, Ritter, Keffer, and Krusee)**

**CSHB 1332**, A bill to be entitled An Act relating to a credit or refund for taxes paid on diesel fuel used in certain manufacturing or production processes.

#### **CSHB 1332 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE WOOLLEY: Mr. Chisum, I would just like to confirm that dyed and undyed kerosene is included in the definition of diesel.

REPRESENTATIVE CHISUM: Yes, it is. Kerosene is number one diesel and it is included in this definition.

#### **REMARKS ORDERED PRINTED**

Representative Woolley moved to print remarks between Representative Chisum and Representative Woolley.

The motion prevailed.

**CSHB 1332** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

#### **HB 1180 ON SECOND READING (by Flores)**

**HB 1180**, A bill to be entitled An Act relating to the continuation of the Texas Lottery Commission and certain laws administered by the commission.

#### **HB 1180 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE GEREN: Chairman Flores, during any of the committee discussions, whenever the sale of the lottery came up, what was your answer to those people?

REPRESENTATIVE FLORES: Absolutely not.

GEREN: And again, absolutely not, absolutely not, absolutely not?

FLORES: Absolutely not.

GEREN: So you have no intention, anything in this bill, to set the lottery up, the lottery commission, up for sale. Is that correct?

FLORES: That's correct.

GEREN: Thank you, Mr. Flores.

REPRESENTATIVE SOLOMONS: To follow up on the sale part, you're not, you have no intent to try to set this up to lease the lottery out, or their functions, to a private company?

FLORES: That's correct.

SOLOMONS: Okay. Now, you have in the bill, that you went from the year 2011 from sunset review to 2009. Although I'm not on sunset any longer, last session we put in the scheduling bill 2011 because of the work load for the sunset commission's staff, and the issues that we seem to have. This bill came up twice before, and now you're going to go ahead and have them try to review it again, and we talked a little bit beforehand, and I want to make sure on the record, why you've done that.

FLORES: Well, there were several issues that you mentioned earlier. The last two sessions, the sunset bill for the lottery has failed, that's one. And number two, as y'all know, there were some problems that occurred with the agency, the firing and replacing of several executive directors. And then number three, which has been a constant problem for the last seven years, there has not been a third commissioner that has been appointed, and in working with the lottery and with sunset during the interim, it was determined that the best thing to do is to stay on top of them, keep working with them, keep the legislature involved in the process. A lot of the problems have been worked out, but it's a recommendation from the agency that they want to look at themselves and make sure that those changes that were implemented, that they are having a positive impact.

SOLOMONS: But your committee has jurisdiction over that and all those issues, and the sunset review really goes to the management actions, and the effects of how they deal with the public and all those issues. Do we really, in your mind, as chair of the licensing and regulations committee, really believe that you need to go back on your sunset review in 2009, versus waiting until 2011, allowing your committee during the interim and next session deal with those issues, because you're going to have a direct impact on that, rather than trying to use the entire sunset staff and their time and efforts to help you do that?

FLORES: That's correct, and that's something that we did together, and as an agency that things are changing constantly, it's gaming that we deal with, there's a lot of technology, there's a lot of games that we have to farm it out, we have to privatize it, and the last thing we want to do is to have another situation like the TYC happen. I mean, this is something that they're asking for themselves, that

we as the committee are monitoring, and we came to the conclusion over the interim that this is the best thing for the agency at this time.

SOLOMONS: Your committee came up with that.

FLORES: In conjunction with the agency and the sunset.

SOLOMONS: And the sunset staff. So you're saying that the sunset staff had input into all of that?

FLORES: All three of us, yes. That's correct.

SOLOMONS: Thank you.

REPRESENTATIVE TALTON: Thank you. Chairman Flores, during the time that you heard this bill, was there any discussion regarding the potential for expansion of any gambling?

FLORES: No, none.

A record vote was requested.

**HB 1180** was passed to engrossment by (Record 363): 90 Yeas, 38 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Castro; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Hamilton; Hardcastle; Harper-Brown; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Jackson; Jones; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Lucio; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Parker; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Strama; Straus; Thompson; Turner; Villarreal; Vo; Woolley.

Nays — Anderson; Aycock; Brown, F.; Callegari; Chisum; Christian; Corte; Crabb; Crownover; Darby; Davis, J.; Elkins; Flynn; Hancock; Hartnett; Hilderbran; Hopson; Howard, C.; Isett; Leibowitz; Macias; Merritt; Miller; Murphy; Otto; Phillips; Riddle; Smith, T.; Smith, W.; Smithee; Solomons; Talton; Taylor; Truitt; Van Arsdale; West; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Creighton; Driver; Gonzalez Tourelles; Haggerty; Harless; Hill; Hughes; Keffer; King, P.; Krusee; Morrison; Mowery; O'Day; Orr; Patrick; Swinford; Veasey.

#### STATEMENTS OF VOTE

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted no.

Creighton

I was shown voting yes on Record No. 363. I intended to vote no.

Harper-Brown

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted no.

Hughes

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted no.

Keffer

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

I was shown voting yes on Record No. 363. I intended to vote no.

Parker

When Record No. 363 was taken, my vote failed to register. I would have voted no.

Swinford

When Record No. 363 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

**CONSTITUTIONAL AMENDMENTS CALENDAR  
HOUSE JOINT RESOLUTIONS  
SECOND READING**

The following resolutions were laid before the house and read second time:

**HJR 35 ON SECOND READING  
(by Otto, et al.)**

**HJR 35**, A joint resolution proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the lessee primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes.

A record vote was requested.

**HJR 35** was adopted by (Record 364): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Driver; Krusee.

**GENERAL STATE CALENDAR  
HOUSE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**HB 1380 ON SECOND READING  
(by McCall)**

**HB 1380**, A bill to be entitled An Act relating to court security and the use of money in courthouse security and municipal court building security funds.

**HB 1380** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 2004 ON SECOND READING  
(by Giddings)**

**HB 2004**, A bill to be entitled An Act relating to requiring that a doctor who reviews a workers' compensation case be certified in a professional specialty appropriate to the care received by the injured employee.

**HB 2004** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**CSHB 709 ON SECOND READING****(by Puente, Laubenberg, B. Cook, Farrar, Veasey, et al.)**

**CSHB 709**, A bill to be entitled An Act relating to information regarding umbilical cord blood options.

**CSHB 709** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1987 ON SECOND READING****(by Berman)**

**HB 1987**, A bill to be entitled An Act relating to the offense of possessing another person's official ballot or official carrier envelope.

**HB 1987** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**CSHB 346 ON SECOND READING****(by Flynn, Zedler, Bailey, Dutton, Eissler, et al.)**

**CSHB 346**, A bill to be entitled An Act relating to random testing of certain public school students for steroid use.

**Amendment No. 1**

Representative Farabee offered the following amendment to **CSHB 346**:

Amend **CSHB 346** as follows:

- (1) On page 1, line 11, strike "and (f)" and substitute "(f), and (f-1)".
- (2) On page 3, between lines 23 and 24, insert the following:

(f-1) The league shall conduct a study on the procedures used for specimen collection for the steroid testing program conducted under Subsection (d) and on whether the persons performing specimen collection services used by school districts for the steroid testing are trained and certified. The league shall submit the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1, 2008. This subsection expires September 1, 2009.

Amendment No. 1 was adopted.

**CSHB 346**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Aycock, Coleman, and Rose recorded voting no.)

**CSHB 416 ON SECOND READING**  
**(by Strama, S. King, D. Howard, et al.)**

**CSHB 416**, A bill to be entitled An Act relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.

**Amendment No. 1**

Representatives Strama and Hancock offered the following amendment to **CSHB 416**:

Amend **CSHB 416** as follows:

(1) On page 2, between lines 18 and 19, insert "(c) A customer who uses a toilet facility as authorized by this section shall leave the toilet facility in the same condition as it was before the customer used the toilet facility."

(2) On page 2, line 19, strike "(c)" and substitute "(d)".

(3) On page 2, line 23, strike "(d)" and substitute "(e)".

Amendment No. 1 was adopted.

A record vote was requested.

**CSHB 416**, as amended, was passed to engrossment by (Record 365): 102 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Creighton; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, S.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smith, T.; Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Zerwas.

Nays — Anderson; Aycocock; Berman; Bonnen; Callegari; Christian; Corte; Crabb; Darby; Elkins; Flynn; Harper-Brown; Hartnett; Howard, C.; King, P.; Laubenberg; Macias; Miller; O'Day; Paxton; Phillips; Pitts; Riddle; Smithee; Solomons; Taylor; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Martinez Fischer; Moreno; Vaught.

Absent — Bohac; Crownover; Dukes; England; Garcia; Hancock; Harless; Kolkhorst; Menendez; Mowery; Patrick; Rose; Smith, W.; Talton; Veasey; Zedler.

**STATEMENTS OF VOTE**

I was shown voting no on Record No. 365. I intended to vote yes.

Anderson

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted yes.

Bohac

I was shown voting yes on Record No. 365. I intended to vote no.

J. Davis

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted yes.

Garcia

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted yes.

Hancock

I was shown voting yes on Record No. 365. I intended to vote no.

Hughes

When Record No. 365 was taken, my vote failed to register. I would have voted no.

Kolkhorst

When Record No. 365 was taken, my vote failed to register. I would have voted yes.

Menendez

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted no.

Patrick

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

I was shown voting yes on Record No. 365. I intended to vote no.

Turner

When Record No. 365 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

When Record No. 365 was taken, my vote failed to register. I would have voted no.

Zedler

### **REMARKS ORDERED PRINTED**

Representative Solomons moved to print remarks between Representative Solomons and Representative Flores regarding **HB 1180**.

The motion prevailed.

Representative Taylor moved to print remarks between Representative Flores and Representative Geren and between Representative Flores and Representative Talton regarding **HB 1180**.

The motion prevailed.

### **RESOLUTIONS ADOPTED**

Representative Dutton moved to suspend all necessary rules in order to take up and consider at this time **HR 1055**, **HR 1252**, **HR 1299**, and **HR 1318 - HR 1334**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 1055** (by Deshotel), Recognizing April 12, 2007, as Coca-Cola Day and acknowledging the Beaumont Coca-Cola Bottling Company on the 100th anniversary of its founding.

**HR 1252** (by Dutton), Honoring the 75th anniversary of Texas Young Democrats.

**HR 1299** (by Quintanilla), Honoring Trooper Jorge Vargas on his retirement from the Texas Department of Public Safety.

**HR 1318** (by Dutton), Honoring attorney Bobby Caldwell of Houston for his professional achievements.

**HR 1319** (by Dutton), Congratulating Tajah Burton, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1320** (by Dutton), Congratulating Deshawn L. Rodgers, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1321** (by Dutton), Congratulating Catrina Nicole Guillory, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1322** (by Dutton), Congratulating Brandon Johnson, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1323** (by Dutton), Congratulating Jonathan-Blake Flemings, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1324** (by Dutton), Congratulating Maureen Ezekor, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1325** (by Dutton), Congratulating De'Andre Ke'Mon Nico, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1326** (by Dutton), Congratulating Quinton Lewis Clemons, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1327** (by Dutton), Congratulating Chelsey Marie Clemons, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1328** (by Dutton), Congratulating Charles Austin Young, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1329** (by Dutton), Congratulating Ta'Marcus D. Land, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1330** (by Dutton), Congratulating Sarah N. Sapp, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1331** (by Dutton), Congratulating A'ysha Williams, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1332** (by Dutton), Congratulating Rochelle V. Causey, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1333** (by Dutton), Congratulating Jairus Francis, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

**HR 1334** (by Dutton), Congratulating Christian Alexander, a 2007 honoree of the Reginald Keith Guillory Scholarship/Academic Awards Luncheon.

The resolutions were adopted.

#### **REMARKS ORDERED PRINTED**

Representative Hill moved to print Representative Krusee's closing remarks on **CSHB 1892**.

The motion prevailed.

#### **COMMITTEES GRANTED PERMISSION TO MEET**

Pursuant to House Rule 4, Section 9, Representative Flores requested permission for all committees and subcommittees to meet while the house is in session, during bill referral today, pursuant to their committee postings.

Permission to meet was granted.

#### **HJR 19 - RECOMMITTED**

Representative Swinford moved to recommit **HJR 19** to the Committee on State Affairs.

The motion prevailed.

#### **FIVE DAY POSTING RULE SUSPENDED**

Representative Eissler moved to suspend the five day posting rule to allow the Committee on Public Education to consider **HB 2183** at 8 a.m. Thursday, April 12 in E2.036.

The motion prevailed.

Representative Berman moved to suspend the five day posting rule to allow the Committee on Elections to consider **HB 1031** at 2 p.m. tomorrow in E2.028.

The motion prevailed.

Representative Miller moved to suspend the five day posting rule to allow the Committee on Agriculture and Livestock to consider **HB 2458** upon adjournment today in E1.010.

The motion prevailed.

#### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Business and Industry will reconvene upon adjournment today.

Local and Consent Calendars, at the posted time, upon adjournment today, E2.024.

#### **PROVIDING FOR A LOCAL, CONSENT, AND RESOLUTIONS CALENDAR**

Representative C. Howard moved to set a local, consent, and resolutions calendar for 9 a.m. Friday, April 13.

The motion prevailed.

#### **RULES SUSPENDED**

Representative P. King moved to suspend all necessary rules to allow the Committee on Regulated Industries to consider **HB 3693**, **SB 225**, and **SB 484** at 2 p.m. or upon adjournment today in JHR 140.

The motion prevailed.

#### **FIVE DAY POSTING RULE SUSPENDED**

Representative B. Cook moved to suspend the five day posting rule to allow the Committee on Civil Practices to consider **HB 3293** upon adjournment tomorrow in E1.010.

The motion prevailed.

Representative Hilderbran moved to suspend the five day posting rule to allow the Committee on Culture, Recreation, and Tourism to consider **HB 3844** upon adjournment today in E2.014.

The motion prevailed.

#### **PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR**

Representative McClendon moved to set a congratulatory and memorial calendar for 9 a.m. Friday, April 13.

The motion prevailed.

#### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Local Government Ways and Means, during bill referral today, 3N.4, for a formal meeting, to consider **SB 213**, **SB 426**, **SB 462**, and **SB 826**.

Regulated Industries, 2 p.m. or upon adjournment today, JHR 140, for a public hearing, to consider **HB 3693**, **SB 225**, and **SB 484**.

Calendars, upon adjournment today, speaker's committee room, for a formal meeting, to consider a calendar.

### **PROVIDING FOR ADJOURNMENT**

Representative R. Cook moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Kathryn Jones Tate of Lubbock.

The motion prevailed.

### **BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Taylor in the chair)

### **ADJOURNMENT**

In accordance with a previous motion, the house, at 7:55 p.m., adjourned until 10 a.m. tomorrow.

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### **ADDENDUM**

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### **REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

#### **List No. 1**

**HB 4078** (By Dutton), Relating to the powers and duties of the Harris County Municipal Utility District No. 402 regarding road projects; providing authority to impose a tax and issue bonds.

To Urban Affairs.

**HB 4081** (By O'Day), Relating to the creation of Sedona Lakes Municipal Utility District No. 1 of Brazoria County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

To Natural Resources.

**HB 4082** (By Flynn), Relating to the creation of an additional statutory county court in Hunt County and the administration, operation, and jurisdiction of statutory county courts in that county.

To Judiciary.

**HB 4083** (By Eissler), Relating to the creation of the Montgomery County Municipal Utility District No. 117; providing authority to impose taxes and issue bonds.

To Natural Resources.

**HB 4084** (By Eissler), Relating to the creation of the Montgomery County Municipal Utility District No. 120; providing authority to impose taxes and issue bonds.

To Natural Resources.

**HB 4085** (By Laubenberg), Relating to the creation, administration, powers, duties, operation, and financing of Triple Creek Municipal Management District within the City of McLendon-Chisholm, Texas, and in Rockwall and Kaufman Counties, to the services by the district, and to the development of the district's territory, neighboring areas within and outside the city's corporate limits, and providing the authority to issue bonds, to levy and collect taxes, to levy assessments, to collect other revenues, and to provide beneficial services to the residents of the district and to the city.

To Urban Affairs.

**HB 4086** (By Escobar), Relating to the creation of the Heart's Delight Groundwater Conservation District; providing conditional authority to impose a tax and issue bonds.

To Natural Resources.

**HB 4087** (By Christian), Relating to the composition and terms of office of the board of directors of the Sabine County Hospital District.

To County Affairs.

**HB 4088** (By Rose), Relating to the Plum Creek Conservation District.

To Natural Resources.

**HB 4089** (By Garcia), Relating to the name, commissioners, and powers of the Aransas County Navigation District No. 1.

To Transportation.

**HB 4090** (By Coleman), Relating to the creation of the Glenbrook Valley Neighborhood Preservation and Improvement District; providing authority to impose an assessment and a tax, and issue bonds or similar obligations.

To Urban Affairs.

**HB 4091** (By Coleman), Relating to Harris County Improvement District No. 6.

To Urban Affairs.

**HCR 185** (By Bohac), Congratulating Patricia Montgomery on being named Outstanding Juvenile Probation Officer of the Year for 2006 by the Harris County Juvenile Probation Department.

To Rules and Resolutions.

**HCR 186** (By Crownover), Designating Lake Lewisville as the official Urban Bass Fishing Capital of Texas.

To Culture, Recreation, and Tourism.

**HCR 187** (By McClendon), Expressing the commitment of the 80th Legislature of the State of Texas to providing a supplemental annuity in the form of a 13th check for eligible ERS retirees.

To Pensions and Investments.

**HCR 188** (By Merritt), Honoring the 60th anniversary of Skeeter Products of Kilgore.

To Rules and Resolutions.

**HR 1376** (By Eiland), Congratulating Sharon Strain on her retirement as executive director of the Galveston Housing Authority.

To Rules and Resolutions.

**HR 1377** (By Creighton), Honoring Operation Helmet for its efforts to assist U.S. military personnel.

To Rules and Resolutions.

**HR 1378** (By Anchia), In memory of James C. Henderson.

To Rules and Resolutions.

**HR 1380** (By Hernandez), Honoring Johnnie Rountree for his outstanding work in behalf of Galena Park ISD.

To Rules and Resolutions.

**HR 1381** (By Farabee), Honoring Iowa Park police chief Steve Klempa on his retirement.

To Rules and Resolutions.

**HR 1382** (By Dukes), Honoring the Huston-Tillotson University Choir on the occasion of its annual Houston concert.

To Rules and Resolutions.

**HR 1383** (By Chavez), Congratulating Estrella Escobar of El Paso on her selection to the Texas Lyceum.

To Rules and Resolutions.

**HR 1384** (By Chavez), Congratulating Governor Bill Richardson of New Mexico on winning the Sembrador del Bien Award from the Sin Fronteras Organizing Project.

To Rules and Resolutions.

**HR 1385** (By Chavez), Congratulating Fermin Dorado on his receipt of the Sembrador del Bien Award from the Sin Fronteras Organizing Project.

To Rules and Resolutions.

**HR 1386** (By Chavez), Congratulating Terry W. Hammond of El Paso on his professional achievements.

To Rules and Resolutions.

**HR 1387** (By Hughes), Congratulating Jack and Bonnie Frost of Quitman on their 65th wedding anniversary.

To Rules and Resolutions.

**HR 1388** (By Hughes), Commemorating the 100th anniversary of the founding of the Mineola Fire Department.

To Rules and Resolutions.

**HR 1389** (By Deshotel), Commending Martin Luther King III for his contributions to social justice on the occasion of his visit to the State Capitol.

To Rules and Resolutions.

**HR 1390** (By Flynn), Congratulating Frances McGregor and Fred McGregor, Sr., of Canton on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 1391** (By Dutton), Honoring Cortney Sanders on her first place finish at the Houston ISD Regional History Fair.

To Rules and Resolutions.

**HR 1392** (By Otto), In memory of Benjamin Ellis Pickett, Sr., of Liberty.

To Rules and Resolutions.

#### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **Senate List No. 19**

**SB 300**

#### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

#### **Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, April 10, 2007

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

- HCR 59** Martinez Fischer SPONSOR: Van de Putte  
In memory of Brigadier General Robert F. McDermott of San Antonio.
- HCR 60** Martinez Fischer SPONSOR: Van de Putte  
Honoring attorney Al Kauffman for his vital contributions in the areas of education and civil rights.
- HCR 101** Dutton SPONSOR: Ellis  
Honoring Deetrice Wallace for being named the 2007 Harris County Teacher of the Year.
- HCR 118** Escobar SPONSOR: Van de Putte  
Welcoming Lieutenant General Ricardo S. Sanchez home to Texas following his retirement from the U.S. Army.
- HCR 122** Dutton SPONSOR: Ellis  
Honoring Charles "Tex" Harrison of the Harlem Globetrotters.
- HCR 145** Merritt SPONSOR: Eltife  
Celebrating the 60th anniversary of LeTourneau University.
- HCR 146** Merritt SPONSOR: Eltife  
Honoring Dr. Alvin O. Austin on his retirement as president of LeTourneau University.

**SB 8** Janek  
Relating to random testing of certain high school students for steroid use and training of certain public school employees regarding steroid use.

**SB 523** Seliger  
Relating to student services building fees at The University of Texas of the Permian Basin.

**SB 652** Seliger  
Relating to professional staff salaries paid by school districts that establish a local minimum hiring schedule.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**April 5**

Border and International Affairs - **HB 53, HB 3594**

Corrections - **HB 281, HB 433**

Defense Affairs and State-Federal Relations - **HB 88, SB 112**

Energy Resources - **HB 2174**

Environmental Regulation - **HR 942**

Financial Institutions - **HB 2396**

Government Reform - **HB 447**

Higher Education - **HB 2198**

Land and Resource Management - **HB 1679, HB 1853, HB 3325**

Law Enforcement - **HB 1423**

Licensing and Administrative Procedures - **HB 1293**

Pensions and Investments - **HB 2870**

Public Health - **HB 1056, HB 1370, HB 1398, HB 1614, HB 1739, HB 1953**

Regulated Industries - **SB 482, SB 483**

Transportation - **HB 323, HB 2682**

Ways and Means - **HB 358, HJR 37**

#### ENGROSSED

**April 5 - HB 54, HB 85, HB 90, HB 177, HB 308, HB 421, HB 425, HB 519, HB 570, HB 581, HB 604, HB 638, HB 732, HB 964, HB 968, HB 1044, HB 1045, HB 1093, HB 1164, HB 1254, HB 1346, HB 1390, HB 1446, HB 1449, HB 1505, HB 1560, HB 1622, HB 1682, HB 1710, HB 1820, HB 1841, HB 1852, HB 1887, HB 1899, HB 1947, HB 2005, HB 2024, HB 2252, HB 2282, HB 2288, HB 2296, HB 2322, HB 2352, HB 2507**

#### ENROLLED

**April 5 - HCR 57, HCR 74, HCR 83, HCR 98, HCR 110, HCR 127, HCR 129, HCR 130, HCR 184**

