

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTY-SECOND DAY — WEDNESDAY, MAY 23, 2007

The house met at 11:40 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 1614).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent — Castro; Moreno.

### LEAVES OF ABSENCE GRANTED

On motion of Representative C. Howard and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

### RULES SUSPENDED

Representative C. Howard moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed.

### MOTION FOR ONE RECORD VOTE

On motion of Representative C. Howard and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

### BILLS WITHDRAWN

The chair announced that **SB 791** and **SB 2025** were withdrawn from today's third reading Local, Consent, and Resolutions Calendar.

### LOCAL, CONSENT, AND RESOLUTIONS CALENDAR THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 1615): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Moreno; Pierson; Veasey.

### STATEMENTS OF VOTE

When Record No. 1615 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 1615 was taken, my vote failed to register. I would have voted yes.

Pierson

**SB 27**

**SB 74**

**SB 131** (Harper-Brown - no) (143 - 1 - 2)

**SB 141**

**SB 191** (Harper-Brown - no) (143 - 1 - 2)

**SB 282**

**SB 415** (Harper-Brown - no) (143 - 1 - 2)

**SB 552**

**SB 556** (Harper-Brown - no) (143 - 1 - 2)

**SB 560**

**SB 606**

**SB 683**

**SB 684**

**SB 718**

**SB 760**

**SB 776**

**SB 827**

**SB 839** (Harper-Brown - no) (143 - 1 - 2)

**SB 878**

**SB 994**

**SB 1032**

**SB 1091**

**SB 1092**

**SB 1127**

**SB 1161**

**SB 1180**

**SB 1231**

**SB 1232**

**SB 1233**

**SB 1271**

**SB 1288**

**SB 1383**  
**SB 1404**  
**SB 1414**  
**SB 1440**  
**SB 1456**  
**SB 1517**  
**SB 1526**  
**SB 1531**  
**SB 1548**  
**SB 1613**  
**SB 1713**  
**SB 1724**  
**SB 1733**  
**SB 1871**  
**SB 1942**  
**SB 1954**  
**SB 1955**  
**SB 1969**  
**SB 1986**  
**SB 1987**  
**SB 1988**  
**SB 29**  
**SB 36**  
**SB 155**  
**SB 162**  
**SB 230**  
**SB 297**  
**SB 309**  
**SB 333**  
**SB 363**  
**SB 401**  
**SB 406**  
**SB 410**  
**SB 469**

**SB 585**  
**SB 610**  
**SB 617**  
**SB 649**  
**SB 662**  
**SB 685**  
**SB 704**  
**SB 707**  
**SB 714**  
**SB 747**  
**SB 778**  
**SB 919**  
**SB 992**  
**SB 1007**  
**SB 1046**  
**SB 1050**  
**SB 1051**  
**SB 1053**  
**SB 1058**  
**SB 1070**  
**SB 1071**  
**SB 1083**  
**SB 1128**  
**SB 1185**  
**SB 1205**  
**SB 1207**  
**SB 1234**  
**SB 1237**  
**SB 1238**  
**SB 1245**  
**SB 1254**  
**SB 1255**  
**SB 1274**  
**SB 1310**

**SB 1380**  
**SB 1391**  
**SB 1433**  
**SB 1446**  
**SB 1483**  
**SB 1495**  
**SB 1504**  
**SB 1510**  
**SB 1524**  
**SB 1535**  
**SB 1566**  
**SB 1601**  
**SB 1624**  
**SB 1658**  
**SB 1668**  
**SB 1669**  
**SB 1714**  
**SB 1729**  
**SB 1743**  
**SB 1762**  
**SB 1829**  
**SB 1833**  
**SB 1877**  
**SB 1912**  
**SB 1946**  
**SB 1972**  
**SB 1974**  
**SB 1976**  
**SB 1984**  
**SB 1985**  
**SB 1989**  
**SB 1990**  
**SB 1991**  
**SB 1997**

**SB 2000**

**SB 2002**

**SB 2003**

**SB 2014**

**SB 2020**

**SB 2029**

**SB 2037**

**SB 2042**

**SB 2043**

**SB 2054**

**SB 737**

**SB 960**

**SB 962**

**SB 1138**

**SB 964**

**SB 965**

**HR 2232 - ADOPTED**  
**(by Dukes)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 2232**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2232**, In memory of U.S. Marine Reserve Corporal Steven P. Gill of Round Rock.

**HR 2232** was unanimously adopted by a rising vote.

**HR 2483 - ADOPTED**  
**(by Alonzo)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 2483**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2483**, Commemorating the donation of the papers of Master Sergeant Roy P. Benavidez to the Institute for Studies in American Military History at The University of Texas at Austin Center for American History and thanking the Benavidez family for this invaluable gift.

**HR 2483** was adopted.

## **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, House List No. 44 and Senate List Nos. 46 and 47).

### **RECESS**

At 12:22 p.m., the chair announced that the house would stand recessed until 1 p.m today.

### **AFTERNOON SESSION**

The house met at 1 p.m. and was called to order by Representative Solomons.

### **HB 1034 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Riddle called up with senate amendments for consideration at this time,

**HB 1034**, A bill to be entitled An Act relating to the pledge of allegiance to the state flag.

Representative Riddle moved to concur in the senate amendments to **HB 1034**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1616): 142 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; 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; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Howard, D.

Present, not voting — Mr. Speaker.

Absent — Castro; Gallego; Goolsby; Moreno; Mowery; Pickett.

### STATEMENTS OF VOTE

When Record No. 1616 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 1616 was taken, my vote failed to register. I would have voted yes.

Gallego

### Senate Committee Substitute

**CSHB 1034**, A bill to be entitled An Act relating to the pledge of allegiance to the state flag.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3100.101, Government Code, is amended to read as follows:

Sec. 3100.101. PLEDGE. The pledge of allegiance to the state flag is: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

SECTION 2. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### HB 1921 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Keffer called up with senate amendments for consideration at this time,

**HB 1921**, A bill to be entitled An Act relating to the use of certain devices in a polling place.

Representative Keffer moved to concur in the senate amendments to **HB 1921**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1617): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; 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; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; 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; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Callegari; Castro; Elkins; Gallego; Giddings; Goolsby; Hochberg; Moreno; Thompson.

### STATEMENTS OF VOTE

When Record No. 1617 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 1617 was taken, my vote failed to register. I would have voted yes.

Gallego

### Senate Committee Substitute

**CSHB 1921**, A bill to be entitled An Act relating to the use of certain devices in a polling place.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 61, Election Code, is amended by adding Section 61.013 to read as follows:

Sec. 61.013. USE OF CERTAIN DEVICES. (a) A person may not use a wireless communication device within 100 feet of a voting station.

(b) A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

(c) The presiding judge may require a person who violates this section to turn off the device or to leave the polling place.

(d) This section does not apply to:

(1) an election officer in conducting the officer's official duties; or

(2) the use of election equipment necessary for the conduct of the election.

SECTION 2. Chapter 62, Election Code, is amended by adding Section 62.0111 to read as follows:

Sec. 62.0111. NOTICE OF PROHIBITION OF CERTAIN DEVICES. (a) At the discretion of the presiding judge, notice of the prohibition of the use of certain devices under Section 61.013 may be posted at one or more locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the wording of a notice posted under this section.

SECTION 3. Section 33.052, Election Code, is amended to read as follows:

Sec. 33.052. HOURS OF SERVICE AT PRECINCT POLLING PLACE.

(a) A watcher at a precinct polling place may begin service at any time after the presiding judge arrives at the polling place on election day and may remain at the polling place until the presiding judge and the clerks complete their duties there. A watcher that serves for more than five continuous hours may serve at the polling place during the hours the watcher chooses, except that if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete.

(b) For purposes of this section, a watcher is considered to have served continuously if the watcher leaves the polling place for the purpose of using a wireless communication device prohibited from use in the polling place under Section 61.013 and the watcher promptly returns.

SECTION 4. This Act takes effect September 1, 2007.

**HB 2694 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Geren called up with senate amendments for consideration at this time,

**HB 2694**, A bill to be entitled An Act relating to the disaster contingency fund.

Representative Geren moved to concur in the senate amendments to **HB 2694**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1618): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; 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; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; 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; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Cook, B.; Delisi; Hardcastle; Hochberg; Moreno; Peña.

### STATEMENT OF VOTE

When Record No. 1618 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

#### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2694** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Subsection (c)(2)(A), Government Code (page 1, line 32), strike ";" and substitute "; and".

(2) In SECTION 1 of the bill, in added Subsection (c)(2)(B), Government Code (page 1, line 34), strike ";" and substitute an underlined period.

(3) In SECTION 1 of the bill, strike added Subsection (c)(2)(C), Government Code (page 1, lines 35-37).

#### **HB 2766 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

**HB 2766**, A bill to be entitled An Act relating to the location at which certain courts may conduct proceedings following certain disasters.

Representative Eiland moved to concur in the senate amendments to **HB 2766**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1619): 144 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Flores; Moreno.

### STATEMENT OF VOTE

When Record No. 1619 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

#### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2766** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 24.033(b), Government Code (page 1, lines 17 and 18), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(2) In SECTION 1 of the bill, in added Section 24.033(b), Government Code (page 1, lines 20 and 21), between "presiding judge of the administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected district court,".

(3) In SECTION 2 of the bill, in added Section 25.0019(b), Government Code (page 1, line 33) strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(4) In SECTION 2 of the bill, in added Section 25.0019(b), Government Code (page 1, lines 36 and 37), between "presiding judge of the administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected statutory county court,".

(5) In SECTION 3 of the bill, in added Section 25.0032(b), Government Code (page 1, line 48), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(6) In SECTION 3 of the bill, in added Section 25.0032(b), Government Code (page 1, lines 51 and 52), between "presiding judge of the statutory probate courts" and "may designate", insert ", with the approval of the judge of the affected statutory probate court,".

(7) In SECTION 4 of the bill, in added Section 26.009(b), Government Code (page 1, line 61), strike "natural or other major disaster" and substitute "disaster, as defined by Section 418.004,".

(8) In SECTION 4 of the bill, in added Section 26.009(b), Government Code (page 1, line 64, through page 2, line 1), between "presiding judge of the administrative judicial region" and "may designate", insert ", with the approval of the judge of the affected county court,".

#### HB 3350 - WITH SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

**HB 3350**, A bill to be entitled An Act relating to payment of costs incurred in the operation and administration of the Texas Lottery Commission.

**HB 3350 - POINT OF ORDER**

Representative Gattis raised a point of order against further consideration of **HB 3350** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

The chair sustained the point of order.

**HB 2352 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Thompson called up with senate amendments for consideration at this time,

**HB 2352**, A bill to be entitled An Act relating to a registered property tax consultant.

**HB 2352 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HAGGERTY: Ms. Thompson, I just want to make sure on legislative intent, that we talked about the fact that this is not going to require property tax consultants to be lawyers.

REPRESENTATIVE THOMPSON: That is my understanding.

HAGGERTY: Okay, right now in the amendment that was stripped from your bill, it talked about the fact that they could not discuss with their clients what the law was or anything else unless they were a lawyer, and that was not your intent either, is it?

THOMPSON: No that is not my intent. As long as they are not operating in a capacity of an attorney and they're just giving general information, I don't see where they would be violating the law.

**REMARKS ORDERED PRINTED**

Representative Haggerty moved to print remarks between Representative Thompson and Representative Haggerty.

The motion prevailed.

Representative Thompson moved to concur in the senate amendments to **HB 2352**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1620): 139 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; 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 Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; 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; Morrison; Mowery;

Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Crabb; Harper-Brown; Phillips.

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

Absent — Callegari; Castro; Hughes; Miller; Moreno.

### STATEMENT OF VOTE

When Record No. 1620 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 2352**, A bill to be entitled An Act relating to a registered property tax consultant.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1152.152(a), Occupations Code, is amended to read as follows:

(a) A registered property tax consultant may not perform property tax consulting services for compensation unless the person is employed by or associated with and acting for:

(1) a registered senior property tax consultant; or

(2) an attorney who is licensed to practice law in this state and who has successfully completed the senior property tax consultant registration examination required under Section 1152.160.

SECTION 2. Section 1152.160, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) An attorney who is licensed to practice law in this state may take the senior property tax consultant registration examination under this section without completing any other eligibility requirements for registration as a senior property tax consultant under this chapter.

SECTION 3. Subchapter D, Chapter 1152, Occupations Code, is amended by adding Section 1152.163 to read as follows:

Sec. 1152.163. **PROHIBITED ACTS.** A person required to hold a certificate of registration under this chapter to act as a property tax consultant may not undertake a representation that pertains in any way to legal issues or make any representations pertaining to or interpreting the law to a client, appraisal district, appraisal review board, or tax office unless that person is also licensed to practice law in this state.

SECTION 4. This Act takes effect September 1, 2007.

### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2352** (Senate committee printing) by striking SECTION 3 of the bill, adding Section 1152.163, Occupations Code (page 1, lines 29 through 37), and by renumbering the subsequent SECTION of the bill accordingly.

**HB 3928 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Keffer called up with senate amendments for consideration at this time,

**HB 3928**, A bill to be entitled An Act relating to technical changes to the revised franchise tax.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3928**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3928**: Keffer, chair; Chisum, Peña, Otto, and Smithee.

**HB 119 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative F. Brown called up with senate amendments for consideration at this time,

**HB 119**, A bill to be entitled An Act relating to the exemption from competitive bidding for certain purchases.

Representative F. Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 119**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 119**: F. Brown, chair; Isett, Hancock, Hernandez, and D. Howard.

**HB 142 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Jackson called up with senate amendments for consideration at this time,

**HB 142**, A bill to be entitled An Act relating to imposition of local sales and use taxes on items shipped or delivered from one transit authority to another transit authority by certain retailers.

Representative Jackson moved to concur in the senate amendments to **HB 142**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1621): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Chavez; Moreno.

### STATEMENTS OF VOTE

When Record No. 1621 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 1621 was taken, I was in the house but away from my desk. I would have voted yes.

Chavez

### Senate Committee Substitute

**CSHB 142**, a bill to be entitled An Act relating to imposition of local sales and use taxes on certain taxable items shipped outside a transit authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The following provisions of the Tax Code are repealed:

- (1) Section 322.105(d); and
- (2) Section 322.107.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 412 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Eissler called up with senate amendments for consideration at this time,

**HB 412**, A bill to be entitled An Act relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

Representative Eissler moved to concur in the senate amendments to **HB 412**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1622):  
137 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; 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; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; 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; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Christian; Crabb; Geren; Harper-Brown; Howard, C.; Parker; Phillips.

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

Absent — Castro; McReynolds; Moreno; Pierson.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1622. I intended to vote no.

Aycock

When Record No. 1622 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

I was shown voting yes on Record No. 1622. I intended to vote no.

Elkins

I was shown voting yes on Record No. 1622. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1622. I intended to vote no.

Kuempel

#### Senate Committee Substitute

**CSHB 412**, A bill to be entitled An Act relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 391.031(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person [~~wilfully~~] erects or maintains outdoor advertising, or allows outdoor advertising to be erected or maintained on property owned by the person:

(1) within 660 feet of the nearest edge of a right-of-way if the advertising is visible from the main-traveled way of the interstate or primary system; or

(2) outside an urban area if the advertising is located more than 660 feet from the nearest edge of a right-of-way, is visible from the main-traveled way of the interstate or primary system, and is erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

SECTION 2. The heading to Section 391.034, Transportation Code, is amended to read as follows:

Sec. 391.034. ~~REMOVAL OF~~ NUISANCE OUTDOOR ADVERTISING; ~~INJUNCTION~~ ~~BY COMMISSION~~.

SECTION 3. Sections 391.035(a) and (c), Transportation Code, are amended to read as follows:

(a) ~~In lieu of~~ ~~addition to~~ being subject to a criminal penalty ~~or injunctive action~~, a person who intentionally violates this subchapter or Subchapter C may be ~~is~~ liable to the state for a civil penalty. ~~The attorney general or a district or county attorney of the county in which the violation is alleged to have occurred may sue to collect the penalty.~~

(c) A penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 4. Section 394.003, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

SECTION 5. The heading to Section 394.021, Transportation Code, is amended to read as follows:

Sec. 394.021. ERECTING OFF-PREMISE SIGN WITHOUT PERMIT; OFFENSE.

SECTION 6. Section 394.021, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) A person commits an offense if the person erects ~~may not erect~~ an off-premise sign unless the person first obtains a permit under this subchapter from the commission.

(c) A person commits an offense if the person:

(1) allows an off-premise sign to be erected on property owned by the person; and

(2) knows or should have known that the sign was erected in violation of this chapter.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(e) It is a defense to prosecution for an offense under this chapter that the person removed the unauthorized sign not later than the 45th day after the date the person received a citation for the offense. If the court is satisfied with the evidence produced by the person to establish a defense under this subsection, the court shall dismiss the charge.

SECTION 7. Section 394.081, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) In lieu of being subject to a criminal penalty, a [A] person who intentionally violates this chapter or a rule adopted by the commission under this chapter may be [is] liable [to the state] for a civil penalty of not less than \$150 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. Each day a violation continues is a separate violation.

(c) A civil penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney.

(d) Before a suit may be brought against a property owner for a violation of Section 394.021(c), the attorney general or the district or county attorney for the county in which the violation is alleged to have occurred shall give the person charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the owner 45 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty unless the person was found guilty or liable by a court for violating this chapter within the preceding six months.

SECTION 8. Subchapter E, Chapter 394, Transportation Code, is amended by adding Section 394.087 to read as follows:

Sec. 394.087. INJUNCTION. (a) A sign that is erected in violation of this chapter is a public nuisance.

(b) On written notice by certified mail from the department or the county, an owner of a sign that is a public nuisance under Subsection (a), or the owner of the property on which the sign is located, shall remove the sign. If the sign is not removed within 45 days of the date of the notice, the department may direct the attorney general to apply for an injunction to require the removal of the sign or a district or county attorney may apply for an injunction to require the removal of the sign.

(c) The state or county is entitled to recover from the owner of a sign, or the owner of the property from which a sign is removed, under an action brought under Subsection (b) all administrative and legal costs and expenses incurred to remove the sign, including court costs and reasonable attorney's fees.

SECTION 9. (a) The change in law made by this Act to Section 391.031, Transportation Code, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2007.

**HB 1297 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Delisi called up with senate amendments for consideration at this time,

**HB 1297**, A bill to be entitled An Act relating to the creation of the state employee wellness program.

Representative Delisi moved to concur in the senate amendments to **HB 1297**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1623): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Harper-Brown; Phillips.

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

Absent — Castro; Moreno.

**STATEMENT OF VOTE**

When Record No. 1623 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1297** (Senate committee report) as follows:

(1) In SECTION 4 of the bill, strike added Section 664.051, Government Code (page 1, lines 28 through 38), and substitute the following:

Sec. 664.051. DEFINITIONS. In this subchapter:

(1) "Board" means the Worksite Wellness Advisory Board.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "State agency" means a department, institution, commission, or other agency that is in the executive, judicial, or legislative branch of state government.

(5) "State employee" means a state employee who participates in a health benefits program administered under Chapter 1551, Insurance Code.

(2) In SECTION 4 of the bill, in added Section 664.052, Government Code (page 1, line 40), between "subchapter" and the period, insert ", including rules prescribing the frequency and location of board meetings".

(3) In SECTION 4 of the bill, strike added Subsection (b), Section 664.053, Government Code (page 2, lines 4 through 9), and substitute the following:

(b) The statewide wellness coordinator shall:

(1) coordinate with other agencies that administer a health benefits program under Chapter 1551, Insurance Code, as necessary to develop the model wellness program, prevent duplication of efforts, provide information and resources to employees, and encourage the use of wellness benefits included in the health benefits program;

(2) maintain a set of Internet links to health resources for use by state employees;

(3) design an outreach campaign to educate state employees about health and fitness-related resources, including available exercise facilities, online tools, and health and fitness-related organizations;

(4) study the implementation and participation rates of state agency worksite wellness programs and report the findings to the legislature biennially; and

(5) organize an annual conference hosted by the department for all state agency wellness councils.

(4) In SECTION 4 of the bill, following added Section 664.053, Government Code (page 2, between lines 26 and 27), insert the following:

Sec. 664.054. WORKSITE WELLNESS ADVISORY BOARD; COMPOSITION. (a) The board consists of the following 13 members appointed by the executive commissioner:

(1) five state agency employees, including one employee of each of the following agencies:

(A) Department of Agriculture;

(B) Texas Education Agency;

(C) Texas Department of Transportation;

(D) Texas Department of Criminal Justice; and

(E) the department;

(2) one other employee of the department who is involved in worksite wellness efforts at the department;

(3) one employee of the Employees Retirement System of Texas;

(4) two state employee representatives of an eligible state employee organization described by Section 403.0165 with at least 10,000 active, dues-paying members;

(5) one worksite wellness professional;

(6) one representative of the American Cancer Society;

(7) one representative of the American Heart Association; and

(8) one representative of the Texas Medical Association.

(b) In appointing members to the board, the executive commissioner shall:

(1) make an effort to appoint at least one member from each of the health and human services regions; and

(2) consider input received from state agency employees.

(c) The members of the board shall elect a presiding officer.

(d) Each member of the board who is not a state officer or employee serves a two-year term expiring February 1 of each odd-numbered year and may be reappointed. Each member of the board who is a state officer or employee serves on the board at the pleasure of the executive commissioner.

(e) If a vacancy occurs, the executive commissioner shall appoint a person to fill the vacancy.

(f) A state officer or employee appointed to the board serves on the board ex officio as an additional duty of the member's office or employment.

Sec. 664.055. REIMBURSEMENT. A member of the board may not receive compensation for service as a board member but is entitled to reimbursement of the member's travel expenses:

(1) under the rules for reimbursement that apply to the member's office or employment, if the member is a state officer or employee; or

(2) as provided by the General Appropriations Act, if the member is not a state officer or employee.

Sec. 664.056. ADMINISTRATION. The board is administratively attached to the department. The department shall provide the staff necessary for the board to perform its duties.

Sec. 664.057. APPLICABILITY OF OTHER LAW. Chapter 2110 does not apply to the size, composition, or duration of the board.

Sec. 664.058. DONATIONS. The board may receive in-kind and monetary gifts, grants, and donations from public and private donors to be used for the purposes of this subchapter.

Sec. 664.059. DUTIES. The board shall advise the department, executive commissioner, and statewide wellness coordinator on worksite wellness issues, including:

(1) funding and resource development for worksite wellness programs;

(2) identifying food service vendors that successfully market healthy foods;

(3) best practices for worksite wellness used by the private sector; and

(4) worksite wellness features and architecture for new state buildings based on features and architecture used by the private sector.

Sec. 664.060. STATE AGENCY WELLNESS COUNCILS. (a) A state agency may facilitate the development of a wellness council composed of employees and managers of the agency to promote worksite wellness in the agency.

(b) A wellness council may work to:

(1) increase employee interest in worksite wellness;

(2) develop and implement policies to improve agency infrastructure to allow for increased worksite wellness; and

(3) involve employees in worksite wellness programs.

(c) Members of a wellness council may review the recommendations of the board and develop a plan to implement the recommendations.

(d) A state agency may allow its employees to participate in wellness council activities for two or more hours each month.

(e) The department shall provide technical support to each state agency wellness council and shall provide financial support to councils if funds are available.

(f) A wellness council may annually identify best practices for worksite wellness in the agency and report the practices to the board.

Sec. 664.061. AGENCY WELLNESS POLICIES. A state agency may:

(1) allow each employee 30 minutes during normal working hours for exercise three times each week;

(2) allow all employees to attend on-site wellness seminars when offered; and

(3) provide eight hours of additional leave time each year to an employee who:

(A) receives a physical examination; and

(B) completes either an online health risk assessment tool provided by the board or a similar health risk assessment conducted in person by a worksite wellness coordinator.

(5) Add the following appropriately numbered SECTION to the bill and renumber existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 664.006, Government Code, is repealed.

**HB 1374 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Swinford called up with senate amendments for consideration at this time,

**HB 1374**, A bill to be entitled An Act relating to service areas of the Amarillo College District and the Borger Junior College District.

Representative Swinford moved to concur in the senate amendments to **HB 1374**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1624): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; Keffler; King, P.; King, S.; King, T.; Kolkhorst; Kruse; 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; Rose; Smith, T.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Dunnam; Elkins; Moreno; Rodriguez; Smith, W.; Talton.

**STATEMENTS OF VOTE**

When Record No. 1624 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 1624 was taken, I was in the house but away from my desk. I would have voted yes.

Rodriguez

**Senate Committee Substitute**

**CSHB 1374.** A bill to be entitled An Act relating to service areas of the Amarillo College District, the Borger Junior College District, the Midland Community College District, and the Odessa College District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 130.164, Education Code, is amended to read as follows:

Sec. 130.164. AMARILLO COLLEGE DISTRICT SERVICE AREA. The service area of the Amarillo College District includes[-

~~(1) the territory within Potter, Randall, Carson, Oldham, Deaf Smith, Parmer, Castro, [and] Swisher, and Moore counties[-and~~

~~(2) the territory within Moore County that is within the Dumas Independent School District].~~

SECTION 2. Section 130.169, Education Code, is amended to read as follows:

Sec. 130.169. BORGER JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Borger Junior College District includes:

(1) the territory within the Borger Independent School District;

(2) the territory within the Spring Creek Independent School District that is also within the junior college district's taxing district; and

(3) the territory within Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Hutchinson, Roberts, and Hemphill counties[-and

~~(4) the territory within Moore County, except the territory within the Dumas Independent School District].~~

SECTION 3. Section 130.188, Education Code, is amended to read as follows:

Sec. 130.188. MIDLAND COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Midland Community College District includes the territory within:

(1) Midland County, except the territory within the Greenwood Community; and

(2) Reagan, Pecos, Terrell, and Crockett counties[-and

~~(3) the municipality of Iran].~~

SECTION 4. Section 130.193, Education Code, is amended to read as follows:

Sec. 130.193. ODESSA COLLEGE DISTRICT SERVICE AREA. The service area of the Odessa College District includes the territory within:

(1) Ector, Brewster, Andrews, Crane, Jeff Davis, Ward, Winkler, Presidio, Upton, Reeves, Culberson, and Loving[-and Terrell] counties; and

(2) ~~Pecos County, except the municipality of Iran; and~~

~~(3) the Seminole Independent School District in Gaines County.~~

SECTION 5. The change in law made by this Act applies beginning with the 2007 fall semester, except that during the 2007-2008 academic year the Borger Junior College District or the Odessa College District may continue to treat an area removed by this Act from the district's service area as if the area were still in the district's service area as necessary to avoid an unreasonable interruption of junior college services in the areas.

SECTION 6. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

**HB 2445 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Garcia called up with senate amendments for consideration at this time,

**HB 2445**, A bill to be entitled An Act relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.

Representative Garcia moved to concur in the senate amendments to **HB 2445**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1625): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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 Tourelles; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; Woolley; Zedler; Zerwas.

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

Absent — Castro; Moreno; West.

**STATEMENT OF VOTE**

When Record No. 1625 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 2445**, A bill to be entitled An Act relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1701.451, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Before a law enforcement agency may hire a person licensed under this chapter, the agency head or the agency head's designee must:

(1) make a written request to the commission for any employment termination report regarding the person that is maintained by the commission under this subchapter; and

(2) submit to the commission on the form prescribed by the commission confirmation that the agency:

(A) conducted in the manner prescribed by the commission a criminal background check regarding the person;

(B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;

(C) obtained from the commission any service or education records regarding the person maintained by the commission; and

(D) contacted each of the person's previous law enforcement employers.

(a-1) A law enforcement agency that obtains a consent form described by Subsection (a)(2)(B) shall make the person's employment records available to a hiring law enforcement agency on request.

SECTION 2. Section 1701.452, Occupations Code, is amended to read as follows:

Sec. 1701.452. EMPLOYMENT TERMINATION REPORT. (a) The head of a law enforcement agency or the head's designee shall submit a report to the commission on a form prescribed by the commission regarding a person licensed under this chapter who resigns or retires from [the] employment with [of] the law enforcement agency, [of] whose appointment with the law enforcement agency is terminated, or who separates from the law enforcement agency for any other reason. The report must be submitted by the head or the designee not later than the seventh business day after the date the license holder:

(1) resigns, retires, or separates from the agency; or

(2) exhausts all administrative appeals available to the license holder if the license holder was terminated based on an allegation of misconduct.

(b) The [agency] head of a law enforcement agency or the head's designee shall include in the report required under Subsection (a) a statement on whether the license holder was honorably discharged, generally discharged, or dishonorably discharged and, as required by the commission, [

(+) an explanation of the circumstances under which the person resigned, retired, or was terminated. For purposes of this subsection:

(1) "Honorably discharged" means a license holder who, while in good standing and not because of pending or final disciplinary actions or a documented performance problem, retired, resigned, or separated from employment with or died while employed by a law enforcement agency.

(2) "Generally discharged" means a license holder who:

(A) was terminated by, retired or resigned from, or died while in the employ of a law enforcement agency and the separation was related to a disciplinary investigation of conduct that is not included in the definition of dishonorably discharged; or

(B) was terminated by or retired or resigned from a law enforcement agency and the separation was for a documented performance problem and was not because of a reduction in workforce or an at-will employment decision.

(3) "Dishonorably discharged" means a license holder who:

(A) was terminated by a law enforcement agency or retired or resigned in lieu of termination by the agency in relation to allegations of criminal misconduct; or

(B) was terminated by a law enforcement agency or retired or resigned in lieu of termination by the agency for insubordination or untruthfulness.

(C) The commission by rule may further specify the circumstances that constitute honorably discharged, dishonorably discharged, and generally discharged within the definitions provided by Subsection (b); and

~~(2) one of the following designations:~~

~~(A) retired, which applies only to an officer who:~~

~~[(i) left the agency while in good standing; and~~

~~[(ii) is eligible to collect a pension;~~

~~(B) honorably discharged, which applies only to an officer who:~~

~~[(i) left the agency while in good standing to pursue other career interests or for personal reasons other than retirement; and~~

~~[(ii) did not leave the agency while under investigation for a criminal violation or while facing disciplinary action, including suspension, demotion, or termination;~~

~~(C) dishonorably discharged, which applies only to an officer whose employment was terminated for a violation of law or department policy or for other substantiated misconduct;~~

~~(D) generally discharged, which applies only to an officer who left the agency:~~

~~[(i) for less than honorable reasons but did not leave the agency because of pending or final disciplinary action; or~~

~~[(ii) while under investigation for a potential criminal violation or in lieu of disciplinary action, including suspension, demotion, or termination;~~

~~(E) killed in the line of duty, which applies only to an officer who was killed while performing the officer's duties as a peace officer in or outside this state;~~

~~(F) died, which applies only to an officer who died for a reason that is not described by Paragraph (E); or~~

~~(G) disabled, which applies only to an officer who was unable to fulfill the officer's duties as a peace officer because of an injury or illness].~~

(d) ~~[(b)]~~ The head of the law enforcement agency from which a license holder ~~[person]~~ resigns, retires, ~~[or]~~ is terminated, or separates for reasons other than death, or the head's designee, shall provide to the license holder ~~[person]~~ a copy of the report. The report must be provided to the license holder not later than the seventh business day after the date the license holder:

(I) resigns, retires, or separates from the agency; or

(2) exhausts all administrative appeals available to the license holder if the license holder was terminated based on an allegation of misconduct.

(e) If the person who is the subject of the employment termination report is deceased, the head of the law enforcement agency or the head's designee on request shall provide a copy of the report to the person's next of kin not later than the seventh business day after the date of the request.

(f) The head of a law enforcement agency or the head's designee satisfies the obligation to provide the report required under Subsection (d) or (e) by sending by certified mail:

(1) the report required under Subsection (d) to the last known address of the license holder if the license holder is not otherwise available; or

(2) the report required under Subsection (e) to the last known address of the next of kin if the next of kin who requested the report is not otherwise available.

(g) [(e)] The head of a law enforcement agency or the head's designee must submit a report under this section each time a person licensed under this chapter resigns, retires, [or] is terminated, or separates for any other reason from the agency. The report is an official government document.

SECTION 3. Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.4521 to read as follows:

Sec. 1701.4521. LICENSE SUSPENSION FOR OFFICER DISHONORABLY DISCHARGED. (a) The commission shall suspend the license of an officer licensed under this chapter on notification that the officer has been dishonorably discharged if the officer has previously been dishonorably discharged from another law enforcement agency.

(b) An officer whose license is suspended under this section may appeal the suspension in writing to the commission not later than the 30th day after the date the officer is suspended.

(c) After a commission determination, the commission may revoke or reinstate the officer's license in accordance with rules or procedures adopted by the commission under this chapter related to revocation or reinstatement of a license. The commission shall revoke the officer's license if the officer does not appeal the suspension before the 30th day after the date the officer is suspended.

(d) The commission's decision does not affect:

(1) the employment relationship between an officer licensed under this chapter and a law enforcement agency; or

(2) any disciplinary action taken against an officer licensed under this chapter by a law enforcement agency.

SECTION 4. Section 1701.4525, Occupations Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) In a proceeding under Subsection (b) to contest the commission's order or under Subsection (c) to correct an employment termination report for an order or report based on alleged misconduct, an administrative law judge shall determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination. If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the report to be changed.

(f) The commission shall adopt rules for the administration of this section.

SECTION 5. Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.458 to read as follows:

Sec. 1701.458. VENUE. Venue for the prosecution of an offense under Section 37.10, Penal Code, that arises from a report required under this subchapter lies in the county where the offense occurred or in Travis County.

SECTION 6. The changes in law made by this Act in relation to employment termination reports apply only to a report under Subchapter J, Chapter 1701, Occupations Code, as amended by this Act, regarding a resignation or termination that occurs on or after the effective date of this Act. An employment termination report regarding a resignation or termination that occurs before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2007.

### **HB 2510 - WITH SENATE AMENDMENTS**

Representative Martinez called up with senate amendments for consideration at this time,

**HB 2510**, A bill to be entitled An Act relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.

### **HB 2510 - POINT OF ORDER**

Representative Talton raised a point of order against further consideration of **HB 2510** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

The chair sustained the point of order.

### **SB 791 ON THIRD READING (Eiland - House Sponsor) RULES SUSPENDED**

Representative Eiland moved to suspend all necessary rules to take up and consider, on its third reading and final passage, **SB 791**.

The motion prevailed.

The chair laid before the house, on its third reading and final passage,

**SB 791**, A bill to be entitled An Act Relating to classifying oysters as an inherently unsafe product for personal consumption.

A record vote was requested.

**SB 791** was read third time and was passed by (Record 1626): 142 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Deshotel; Hamilton.

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

Absent — Castro; Flores; Krusee; Moreno.

### STATEMENT OF VOTE

When Record No. 1626 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### HB 2984 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Creighton called up with senate amendments for consideration at this time,

**HB 2984**, A bill to be entitled An Act relating to the qualification of supervisors of a fresh water supply district.

Representative Creighton moved to concur in the senate amendments to **HB 2984**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1627):  
143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; 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; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Callegari; Castro; Hochberg; Kuempel; Moreno.

### STATEMENTS OF VOTE

When Record No. 1627 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 1627 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2984** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 53.063, Water Code, after "SUPERVISOR'S QUALIFICATIONS." (line 13), strike "To" and substitute "(a) Except as provided by Subsection (b), to [To]".

(2) In SECTION 1 of the bill, at the end of amended Section 53.063, Water Code (between lines 18 and 19), insert the following:

(b) To be qualified for election as a supervisor of a district located wholly or partly in Denton County, a person must be a registered voter of the district.

### HB 3011 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative W. Smith called up with senate amendments for consideration at this time,

**HB 3011**, A bill to be entitled An Act relating to the creation of ship channel security districts by certain populous counties.

Representative W. Smith moved to concur in the senate amendments to **HB 3011**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1628): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Geren; Krusee; Moreno.

**STATEMENT OF VOTE**

When Record No. 1628 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

**Senate Committee Substitute**

**CSHB 3011**, A bill to be entitled An Act relating to the creation of ship channel security districts by certain populous counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Water Code, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. SHIP CHANNEL SECURITY DISTRICTS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. DEFINITIONS. In this chapter:

- (1) "Board" means a district's board of directors.
- (2) "District" means a ship channel security district created under this chapter.
- (3) "Security project" means a project promoting or aiding security in a district.
- (4) "Security service" means a service promoting or aiding security in a district.

Sec. 68.002. NATURE OF DISTRICT; PURPOSE. A district is a special district and political subdivision of this state. A district is created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section and Sections 52 and 52-a, Article III, Texas Constitution.

Sec. 68.003. PUBLIC PURPOSE OF SECURITY PROJECTS. A security project is owned, used, and held for public purposes by the district.

Sec. 68.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 68.005. GENERAL WATER DISTRICT LAW NOT APPLICABLE. Chapter 49 does not apply to a district.

[Sections 68.006-68.050 reserved for expansion]

SUBCHAPTER B. FACILITIES

Sec. 68.051. APPLICABILITY TO FACILITIES. (a) In this section:

- (1) "Chemical manufacturers' association" means an association of chemical manufacturers, refiners, and supporting distribution and terminal facility managers that operate in a district.
- (2) "Chemical manufacturers' association facility" means a facility owned by a member of a chemical manufacturers' association.
- (3) "Mutual aid organization" means an organization that operates in a district and whose:

(A) primary purpose is the promotion of social welfare by providing assistance for the common good and general welfare to and within the communities of its members for emergency fire protection and other public safety matters; and

(B) members include various industries and governmental entities with the resources required to participate in those activities.

(b) This chapter applies to the following types of facilities in the district:

(1) a chemical manufacturers' association facility;

(2) a mutual aid organization facility;

(3) a facility as defined in 46 U.S.C. Section 70101;

(4) a facility described by 33 C.F.R. Section 105.105(a);

(5) a facility subject to an area maritime transportation security plan under 46 U.S.C. Section 70103(b);

(6) a facility subject to 40 C.F.R. Part 112;

(7) a general shipyard facility as defined by 46 C.F.R. Section 298.2;

(8) a facility included in one or more of the following categories and codes of the 2007 North American Industry Classification System:

(A) crude petroleum and natural gas extraction, 211111;

(B) petroleum refineries, 324110;

(C) petroleum manufacturing, 325110;

(D) petroleum lubricating oil and grease manufacturing, 324191;

(E) all other petroleum and coal products manufacturing, 324199;

(F) all other chemical and other manufacturing, 311111-339999;

(G) petroleum bulk stations and terminals, 424710;

(H) plastics, chemical, and petroleum wholesalers, 424610, 424690, and 424720;

(I) transportation, including rail, water, and road transportation and pipelines, 486110-486990, 488210, 488390, and 488490;

(J) port and harbor operations, 488310;

(K) marine cargo handling, 488320;

(L) warehousing and storage, including general, refrigerated, farm and other, 493110, 493120, 493130, and 493190; and

(M) deep sea and coastal freight and passenger transportation, 483111-483114; and

(9) a facility described by Subsection (c).

(c) After the district is created, the commissioners court that created the district by order may provide for this chapter to apply to any other facility that the district by petition requests the court to add.

(d) This chapter does not apply to the following facilities:

(1) a residential property, including a single-family or multifamily residence;

(2) a retail or service business that is not a facility as defined by 46 U.S.C. Section 70101;

(3) a public access facility as defined by 33 C.F.R. Section 101.105; or

(4) a facility that is not listed under Subsection (b) and that is owned by:

(A) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(B) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(C) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(D) a person who provides to the public cable television or advanced telecommunications services.

Sec. 68.052. DESIGNEES FOR FACILITY OWNERS. A facility's owner may designate a person:

- (1) to act for the owner in connection with a district; and
- (2) to bind the owner under this chapter.

[Sections 68.053-68.100 reserved for expansion]

SUBCHAPTER C. CREATION

Sec. 68.101. DISTRICT CREATION BY CERTAIN POPULOUS COUNTIES WITH SHIP CHANNELS. A district may be created only by the commissioners court of a county with a population of 3.3 million or more that has a ship channel in the county.

Sec. 68.102. PETITION FOR CREATION. A district may be created only if the commissioners court of the county in which the district is proposed to be created receives a petition requesting the district's creation. The petition must be signed by:

- (1) the owners of a majority of facilities in the proposed district; and
- (2) the owners of a majority of the assessed value of facilities in the proposed district according to the most recent certified property tax rolls of the county.

Sec. 68.103. CONTENTS OF PETITION; DISTRICT TERRITORY. The petition must:

- (1) propose a name for the district, which must:
  - (A) generally describe the location of the district; and
  - (B) be of the form "\_\_\_\_\_ Ship Channel Security District";
- (2) state the general nature of the security projects and security services to be provided by the district; and
- (3) describe the proposed district territory and the boundaries of four or five security zones inside the proposed district.

Sec. 68.104. NOTICE OF HEARING; CONTENTS OF NOTICE. (a) The commissioners court of the county in which a district is proposed to be created shall set a date, time, and place for a hearing to consider the petition received by the commissioners court.

(b) The commissioners court shall issue public notice of the hearing. The notice must state:

- (1) the date, time, and place of the hearing; and
- (2) that any person may appear, present evidence, and testify for or against the creation of the proposed district.

(c) The commissioners court shall publish the notice in a newspaper of general circulation in the county at least one time at least 30 days before the hearing date.

Sec. 68.105. HEARING. At the hearing, any interested person may appear in person or by attorney, present evidence, and offer testimony for or against the creation of the proposed district.

Sec. 68.106. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. After the hearing, the commissioners court shall consider whether to create the proposed district. The commissioners court must make the following findings before approving a petition requesting creation of a district:

- (1) the district will serve a public use and benefit;

(2) facilities in the district will benefit from the security projects and security services proposed to be provided by the district;

(3) the creation of the district is in the public interest and useful for the protection of facilities in the district against the threat posed by terrorism; and

(4) the creation of the district is necessary to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

Sec. 68.107. ORDER CREATING DISTRICT; CHANGES. (a) If the commissioners court makes the findings under Section 68.106, the commissioners court by order may create the proposed district.

(b) The commissioners court may include in the order any changes or modifications to the proposed district as the court determines are appropriate to reflect the intent of the petition requesting creation of the district.

[Sections 68.108-68.150 reserved for expansion]

SUBCHAPTER D. BOARD OF DIRECTORS

Sec. 68.151. GOVERNING BODY; COMPOSITION. A district is governed by a board of at least 10 but not more than 13 directors, appointed or serving as follows:

(1) two directors for each security zone appointed by the commissioners court of the county and nominated as provided by Section 68.152;

(2) one director appointed for the district at large by the commissioners court of the county under Section 68.153;

(3) one director appointed under Section 68.154; and

(4) any director serving under Section 68.155.

Sec. 68.152. SECURITY ZONE DIRECTORS. (a) The commissioners court of the county shall appoint two directors for each security zone from a list of two persons nominated by a majority vote of the facility owners in each security zone. Each nominated person must be employed by a facility owner at a facility in the zone.

(b) After reviewing the list, the commissioners court shall approve or disapprove the nominations for each security zone.

(c) If the commissioners court is not satisfied with the list provided for a security zone, the facility owners in the security zone shall provide to the court a new list under Subsection (a).

Sec. 68.153. AT-LARGE DIRECTOR. The director appointed by the commissioners court for the district at large may be:

(1) a person employed by a member of an association that includes steamship owners, operators, and agents and stevedoring and terminal companies and that:

(A) is a Texas nonprofit corporation; and

(B) leases space in the district; or

(2) any other person considered appropriate by the commissioners court.

Sec. 68.154. MUNICIPAL DIRECTOR. (a) If there is a countywide association of mayors and city councils of municipalities in a county that creates a district, the association shall appoint one director.

(b) If there is not an association described by Subsection (a), the municipalities in the district shall appoint a director. If there is more than one municipality in the district, the governing body of each municipality by resolution may vote in favor of a nominated person and a person who receives the votes of a majority of governing bodies is appointed director.

(c) The director appointed under this section must reside in a municipality adjacent to the largest ship channel in the district.

Sec. 68.155. PORT AUTHORITY; EX OFFICIO DIRECTOR. (a) In this section, "port authority" means a navigation district located wholly or partly in the security district, and created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) If a port authority is located in the district, the executive director, or a person designated by the executive director, serves as a director. If more than one port authority is located in the district, the executive director, or a person designated by the executive director, of the port authority with the largest territory inside the district serves as a director.

Sec. 68.156. TERMS; INITIAL DIRECTORS. (a) Except as provided by Subsection (b), directors serve staggered two-year terms.

(b) The initial directors shall stagger their terms, with a majority of the directors serving two years, and a minority of directors serving one year. If the initial board has an even number of directors, the terms are staggered equally. If the initial directors cannot agree on the staggering, the directors shall draw lots to determine the directors who serve one-year terms.

Sec. 68.157. VACANCY. A vacancy in the board is filled by the remaining directors by appointing a person who meets the qualifications for the position, who shall serve for the unexpired term.

Sec. 68.158. QUORUM. For purposes of determining whether a quorum of the board is present, a vacant board position is not counted.

Sec. 68.159. OFFICERS. The board shall elect from its directors a presiding officer, a secretary, and any other officers the board considers necessary or appropriate.

Sec. 68.160. COMPENSATION. A director is not entitled to compensation for service on the board, but is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties of a director.

Sec. 68.161. MEETINGS. (a) The board shall determine the frequency of its meetings and may hold meetings at any time the board determines.

(b) The board shall conduct its meetings in the district.

Sec. 68.162. REMOVAL. The board may remove an appointed director for misconduct or failure to carry out the director's duties on receiving a written petition signed by a majority of the remaining directors.

[Sections 68.163-68.200 reserved for expansion]

#### SUBCHAPTER E. POWERS AND DUTIES

Sec. 68.201. GENERAL POWERS OF DISTRICT. (a) A district has all powers necessary or required to accomplish the purposes for which it was created.

(b) A district may do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this chapter.

Sec. 68.202. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as provided by this chapter, a district has the powers of a district created under Chapter 375, Local Government Code.

Sec. 68.203. RULES. The district may adopt rules to govern the operation of the district.

Sec. 68.204. NAME CHANGE. A board by resolution may change a district's name.

Sec. 68.205. CONTRACTS; GENERALLY. A district may contract with any person for any district purpose.

Sec. 68.206. SECURITY PROJECTS AND SERVICES. (a) The board shall determine what security projects or security services the district will perform. A security project may include a project eligible for funding under a port security grant program of the United States Department of Homeland Security.

(b) A district may own, operate, and maintain a security project or provide a security service as reasonably necessary to carry out a district power under this chapter.

(c) A district may acquire, construct, complete, develop, own, operate, maintain, and lease a security project or part of a security project or provide a security service inside and outside its boundaries.

Sec. 68.207. CONTRACTS FOR SECURITY PROJECTS OR SERVICES.

(a) A district may contract with any person to plan, establish, develop, construct, renovate, maintain, repair, replace, or operate a security project or to provide a security service.

(b) A district may lease to any person a security project or any part of a security project.

(c) A district may contract with any person for the use or operation of a security project or any part of a security project.

Sec. 68.208. CONTRACTS FOR JOINT USE OF SECURITY PROJECT.

A district may contract with any person, public or private, for the joint use of a security project.

Sec. 68.209. CONTRACTS WITH DISTRICT BY GOVERNMENTAL ENTITY. This state, a municipality, a county, another political subdivision of this state, or any other person, without further authorization, may contract with the district to accomplish any district purpose.

Sec. 68.210. PROPERTY POWERS; GENERALLY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of any property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

Sec. 68.211. SUITS. A district may sue and be sued.

Sec. 68.212. NO EMINENT DOMAIN POWER. A district may not exercise the power of eminent domain.

[Sections 68.213-68.250 reserved for expansion]

#### SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 68.251. GRANTS; LOANS. A district may apply for and accept a grant or loan from any person, including:

- (1) the United States;
- (2) this state; and
- (3) a political subdivision of this state.

Sec. 68.252. PAYMENT OF EXPENSES. A district may provide for payment of all expenses incurred in its establishment, administration, and operation.

Sec. 68.253. TAXES PROHIBITED. A district may not impose any tax, including a property tax or a sales and use tax.

Sec. 68.254. BONDS PROHIBITED. A district may not issue bonds.

[Sections 68.255-68.300 reserved for expansion]

#### SUBCHAPTER G. ASSESSMENTS

Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT. The board may impose an assessment against facilities for any district purpose.

Sec. 68.302. PROPOSED ASSESSMENTS. A security project or security service may be financed under this chapter after a hearing notice given as required by this subchapter and a public hearing by the board on the advisability of:

- (1) the security project or security service; and
- (2) the proposed assessments.

Sec. 68.303. NOTICE OF HEARING. (a) Not later than the 30th day before the date of the hearing, the district shall provide notice of the hearing by certified mail, return receipt requested, to each facility owner at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility under Section 25.02, Tax Code.

(b) The notice must include:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed security project or security service;
- (3) the estimated cost of the security project or security service; and
- (4) the proposed method of assessment.

Sec. 68.304. CONDUCTING HEARING; FINDINGS. (a) A hearing on a proposed security project or security service, whether conducted by the board or a hearing examiner, may be adjourned from time to time.

(b) At the conclusion of the hearing, the board by resolution shall make findings relating to:

- (1) the advisability of the security project or security service;
- (2) the nature of the security project or security service;
- (3) the estimated cost;
- (4) the facilities benefited;
- (5) the method of assessment; and
- (6) the method and time for payment of the assessment.

(c) If a hearing examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearing examiner shall file with the board a report stating the examiner's findings and conclusions for the board's consideration.

Sec. 68.305. FACILITIES TO BE ASSESSED. (a) In accordance with the findings, the board may impose an assessment against all the facilities in the district or any portion of the facilities in the district, and may impose an assessment against fewer facilities than those proposed for assessment in the hearing notice.

(b) Except as provided by Subsection (c), the facilities to be assessed may not include a facility that is not in the district at the time of the hearing unless there is an additional hearing preceded by the required notice.

(c) The owner of a facility described by Subsection (b) may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for the facility.

Sec. 68.306. ASSESSMENT RATE CHANGE. After notice and a hearing, the board by majority vote may increase or decrease the rate of assessment. The board must provide notice of the hearing in the manner provided by Section 68.303.

Sec. 68.307. OBJECTIONS; LEVY OF ASSESSMENT. (a) At a hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearing examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board by majority vote may amend proposed assessments for any facility.

(c) After all objections have been heard and action has been taken with regard to those objections, the board by resolution shall impose the assessments on the facilities and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments.

(d) Periodic installments must be in amounts sufficient to meet annual costs for security projects or security services provided by this chapter and continue for the number of years required to pay for the security projects and security services to be rendered.

(e) If assessments are imposed for more than one security project or security service, the board may provide that assessments collected for one security project or security service may be used for another security project or security service.

(f) The board shall establish a procedure for the use or refund of any assessments in excess of those necessary to finance a security project or security service for which those assessments were collected.

Sec. 68.308. APPORTIONMENT OF ASSESSMENT. The board shall apportion the cost of a security project or security service to be assessed against a facility based on any reasonable assessment plan that results in imposing fair and equitable shares of the cost.

Sec. 68.309. ASSESSMENT ROLL. (a) Once the estimated total cost of a security project or security service is determined, the board shall impose the assessments against each facility against which an assessment may be imposed in the district. The board may impose an annual assessment that is lower but not higher than the initial assessment.

(b) The board shall have an assessment roll prepared showing the assessments against each facility and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

Sec. 68.310. SUPPLEMENTAL ASSESSMENTS. After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

- (1) relating to the total cost of the security project or security service; or
- (2) covering delinquencies or costs of collection.

Sec. 68.311. APPEAL. (a) Not later than the 30th day after the date that an assessment is adopted, a facility owner may file a notice appealing the assessment to the board.

(b) The board shall set a date to hear the appeal.

(c) Failure to file the notice in the time required by this section results in loss of the right to appeal the assessment.

(d) The board may make a reassessment or new assessment of the facility if the assessment against the facility is:

- (1) set aside by a court;
- (2) found excessive by the board; or
- (3) determined invalid by the board.

(e) A reassessment or new assessment under Subsection (d)(1) may not violate the court order that set aside the assessment.

Sec. 68.312. APPEAL OF RESOLUTION. (a) A facility against which an assessment is made by board resolution may appeal the assessment to a district court in the county in the manner provided for the appeal of contested cases under Chapter 2001, Government Code.

(b) Review by the district court is by trial de novo.

Sec. 68.313. FAILURE TO PAY ASSESSMENT; LIENS FOR ASSESSMENTS. (a) If an assessed facility fails to pay an assessment as provided in a district's assessment plan, the district may impose a lien against the facility assessed.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

Sec. 68.314. DELINQUENT ASSESSMENTS. A delinquent assessment incurs interest, penalties, and attorney's fees in the same manner as a delinquent ad valorem tax. The owner of a facility may pay at any time the entire assessment, with interest, penalties, and attorney's fees that have accrued on the assessment.

Sec. 68.315. ASSESSMENT OF GOVERNMENTAL ENTITIES AND NONPROFITS. (a) Except as provided by this section, the district may not impose an assessment on:

(1) a governmental entity, including a municipality, county, or other political subdivision; or

(2) an organization exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(b) An entity or organization described by Subsection (a) may contract with a district to pay assessments under terms the district and the entity or organization consider advisable.

[Sections 68.316-68.350 reserved for expansion]

#### SUBCHAPTER H. DISSOLUTION

Sec. 68.351. DISSOLUTION OF DISTRICT FOR FAILURE TO IMPOSE AN ASSESSMENT. A district is dissolved if the district has not imposed an assessment before the fifth anniversary of the date of the order creating the district under Section 68.107. The county that created the district assumes any district debts or assets.

Sec. 68.352. DISSOLUTION OF DISTRICT BY BOARD VOTE OR OWNER PETITION. (a) The board by majority vote may dissolve the district at any time.

(b) A district may be dissolved as provided by Section 375.262, Local Government Code.

(c) The county that created the district assumes any debts or assets of a dissolved district.

SECTION 2. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

**HB 3105 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Anchia called up with senate amendments for consideration at this time,

**HB 3105**, A bill to be entitled An Act relating to a program allowing for countywide voting locations in certain elections.

Representative Anchia moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3105**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3105**: Anchia, chair; Bohac, England, Farias, and Burnam.

**HB 3457 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

**HB 3457**, A bill to be entitled An Act relating to idling the diesel engine of a school bus while the bus is parked at a public school or school event.

Representative Hochberg moved to concur in the senate amendments to **HB 3457**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1629): 120 Yeas, 23 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Howard, C.; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Anderson; Aycock; Berman; Brown, F.; Callegari; Christian; Crabb; Crownover; Darby; Eissler; Elkins; Flynn; Gattis; Hancock; Harper-Brown; Hopson; Kuempel; Macias; Miller; Phillips; Taylor; Van Arsdale; Zedler.

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

Absent — Castro; Hughes; Merritt; Moreno.

### STATEMENT OF VOTE

When Record No. 1629 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 3457**, A bill to be entitled An Act relating to idling the diesel engine of a school bus while the bus is parked at a public school or school event.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 34, Education Code, is amended by adding Section 34.0041 to read as follows:

Sec. 34.0041. IDLING BUS DIESEL ENGINE AT SCHOOL OR SCHOOL EVENT PROHIBITED. (a) In this section, "idling" means allowing an engine to run while the motor vehicle is not engaged in forward or reverse motion.

(b) Except as provided by Subsection (c), the driver of a school bus equipped with a diesel engine may not allow the idling of the bus engine while the bus is parked at a school or school event.

(c) Subsection (b) does not prohibit the idling of a school bus diesel engine:

(1) for the minimum time necessary to heat or cool the bus before departure, provided that the engine is turned off when a student is embarking or disembarking; or

(2) as necessary to accommodate the physical needs of a student who receives special education services, regardless of whether students are embarking or disembarking.

SECTION 2. Section 34.0041, Education Code, as added by this Act, applies beginning with the 2007-2008 school year.

SECTION 3. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### **HB 3849 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative Hilderbran called up with senate amendments for consideration at this time,

**HB 3849**, A bill to be entitled An Act relating to the registration of all-terrain vehicles by the Texas Department of Transportation.

Representative Hilderbran moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3849**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3849**: Hilderbran, chair; Harless, Homer, Kuempel, and O'Day.

**HB 567 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Puente called up with senate amendments for consideration at this time,

**HB 567**, A bill to be entitled An Act relating to the time requirements for registering with the state registry of paternity.

Representative Puente moved to concur in the senate amendments to **HB 567**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1630): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Corte; Madden; Moreno.

**STATEMENT OF VOTE**

When Record No. 1630 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

**Senate Committee Substitute**

**CSHB 567**, A bill to be entitled An Act relating to the state registry of paternity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 160.415, Family Code, is amended to read as follows:

Sec. 160.415. UNTIMELY REGISTRATION. If a man registers later than the 31st ~~[30th]~~ day after the date of the birth of the child, the bureau of vital statistics shall notify the registrant that the registration was not timely filed.

SECTION 2. Section 160.421(a), Family Code, is amended to read as follows:

(a) If a father-child relationship has not been established under this chapter, a petitioner for the adoption of or the termination of parental rights regarding the child must obtain a certificate of the results of a search of the registry. The petitioner may request a search of the registry on or after the 32nd day after the date of the birth of the child, and the bureau of vital statistics may not by rule impose a waiting period that must elapse before the bureau will conduct the requested search.

SECTION 3. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

**HB 1522 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Harless called up with senate amendments for consideration at this time,

**HB 1522**, A bill to be entitled An Act relating to parking a commercial motor vehicle on certain streets.

Representative Harless moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1522**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1522**: Harless, chair; Deshotel, Murphy, W. Smith, and Vaught.

**HB 2096 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Quintanilla called up with senate amendments for consideration at this time,

**HB 2096**, A bill to be entitled An Act relating to utility connections on certain tracts of land in certain counties near an international border.

Representative Quintanilla moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2096**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2096**: Quintanilla, chair; Lucio, T. King, Peña, and Pickett.

**HB 2549 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative T. Smith called up with senate amendments for consideration at this time,

**HB 2549**, A bill to be entitled An Act relating to extension of group life insurance to eligible children.

Representative T. Smith moved to concur in the senate amendments to **HB 2549**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1631): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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, 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; King, S.; Moreno.

**STATEMENT OF VOTE**

When Record No. 1631 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

**Senate Committee Substitute**

**CSHB 2549**, A bill to be entitled An Act relating to eligibility of certain dependents for group life insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1131.802, Insurance Code, is amended to read as follows:

Sec. 1131.802. EXTENSION OF GROUP LIFE INSURANCE TO SPOUSES AND CHILDREN; ELIGIBLE CHILDREN. Insurance under a group life insurance policy may be extended to cover:

(1) the spouse of each individual eligible to be insured under the policy;

[✕]

(2) a natural or adopted child of each individual eligible to be insured under the policy if the child is:

(A) unmarried and younger than 25 ~~[24]~~ years of age; or

(B) ~~older than 21 years of age and~~

~~[(i) enrolled as a full-time student at an educational institution;~~

~~or~~

~~[(ii)] physically or mentally disabled and under the parents'~~

~~supervision; or~~

(3) a natural or adopted grandchild of each individual eligible to be insured under the policy if the child is:

(A) unmarried;

(B) younger than 25 years of age; and

(C) a dependent of the insured for federal income tax purposes at

the time the application for coverage of the child is made.

SECTION 2. The change in law made by this Act applies only to a group life insurance policy delivered, issued for delivery, or renewed on or after January 1, 2008. A policy delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 2639 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Smithee called up with senate amendments for consideration at this time,

**HB 2639**, A bill to be entitled An Act relating to risk management programs for members of fraternities and other student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

Representative Smithee moved to concur in the senate amendments to **HB 2639**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1632): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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.; Isett; Jackson; Jones; Keffer; King, P.; 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; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.;

Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Hughes; King, S.; Moreno.

### STATEMENT OF VOTE

When Record No. 1632 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 2639**, A bill to be entitled An Act relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9361 to read as follows:

Sec. 51.9361. RISK MANAGEMENT PROGRAMS FOR MEMBERS AND ADVISORS OF STUDENT ORGANIZATIONS. (a) In this section:

(1) "Advisor" means a person who:

(A) serves in an advisory capacity to a student organization to provide guidance to the organization and its members;

(B) is older than 21 years of age; and

(C) is not a student of the postsecondary educational institution at which the student organization is registered.

(2) "Postsecondary educational institution" means:

(A) an institution of higher education as defined by Section 61.003, except that the term does not include a medical and dental unit or other agency of higher education as those terms are defined by that section; and

(B) a private or independent institution of higher education as defined by Section 61.003, except that the term does not include:

(i) a health-related institution; or

(ii) an institution that offers only upper-division, graduate-level, or professional courses.

(b) This section applies only to a student organization that is registered at a postsecondary educational institution and that is composed mostly of students enrolled at the institution. Notwithstanding Section 1.001(a), this section applies to each postsecondary educational institution at which is registered one or more student organizations.

(c) At least once during each academic year, a postsecondary educational institution shall provide a risk management program for members of student organizations registered at the institution. Any member of a student organization who is not otherwise required to attend may attend the program.

(d) Unless a postsecondary educational institution requires each student organization registered at the institution to have representatives of the organization attend a program under this section, the institution shall adopt a policy that specifies one or more of those student organizations or types of student organizations that are required to have representatives attend. The

selection of student organizations or types of student organizations under the policy must be based on the institution's determination that those organizations or types of organizations could particularly benefit from risk management guidance. Each advisor who has not previously attended a program under this section and each person serving in a designated officer position of a student organization that is required to have representatives attend a program under this section shall attend the program. An institution may allow an advisor, other than a faculty or staff member of the institution, to satisfy the attendance requirements prescribed by this subsection through completion of an appropriate computer-based risk assessment program.

(e) For purposes of Subsection (d), the institution may designate not more than four officer positions of a student organization, such as the president, membership chair, risk management chair, social chair, or pledge class or new member chair. If a student organization does not have an officer position described by this subsection or if an officer position described by Subsection (d) is vacant, the institution shall, to the extent practicable, identify and designate an equivalent officer position, and the person serving in that officer position shall attend the program.

(f) Each advisor or officer required by Subsection (d) to attend a program shall report on the program's contents at a meeting of the full membership of the student organization the advisor or officer represented at the program.

(g) A program under this section may address any issue determined appropriate by the postsecondary educational institution and must address:

(1) possession and use of alcoholic beverages and illegal drugs, including penalties that may be imposed for possession or use;

(2) hazing;

(3) sexual abuse and harassment;

(4) fire and other safety issues, including the possession and use of a firearm or other weapon or of an explosive device;

(5) travel to a destination outside the area in which the institution is located;

(6) behavior at parties and other events held by a student organization;

and

(7) adoption by a student organization of a risk management policy.

(h) A postsecondary educational institution shall provide notice of a program under this section to student organizations in the manner determined by the institution.

(i) A postsecondary educational institution shall take attendance at a program provided under this section in the manner determined appropriate by the institution and may, as provided by a policy adopted by the institution, impose reasonable sanctions on a person who is required to attend the program and fails to attend. The institution shall, until at least the third anniversary of the date of the program, maintain in an appropriate location at the institution a record of that attendance and of notice provided under Subsection (h).

SECTION 2. (a) The Texas Department of Insurance shall conduct a study concerning:

(1) the levels and types of insurance coverage fraternities at institutions of higher education in this state are required to carry by the fraternities' chartering or national organizations;

(2) the availability and affordability of the levels and types of insurance coverage described by Subdivision (1) of this subsection; and

(3) whether the levels and types of insurance coverage described by Subdivision (1) of this subsection are available in this state under:

(A) insurance policies issued by insurers authorized to engage in the business of insurance in this state or by eligible surplus lines insurers; or

(B) independently procured contracts of insurance.

(b) Not later than January 1, 2009, the Texas Department of Insurance shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and the house of representatives that have jurisdiction over insurance and higher education a written report summarizing the results of the study conducted under Subsection (a) of this section.

SECTION 3. section 51.9361, Education Code, as added by this Act, applies to a risk management program at public and private postsecondary educational institutions beginning with the 2008 fall semester.

SECTION 4. This Act takes effect September 1, 2007.

### **HB 2761 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

**HB 2761**, A bill to be entitled An Act relating to requirements governing suitability in certain annuity transactions with consumers.

Representative Eiland moved to concur in the senate amendments to **HB 2761**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1633):  
143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Flynn; Frost; Gallego; Garcia; Gattis; Geren; 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, 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Flores; Giddings; King, S.; Moreno.

## STATEMENT OF VOTE

When Record No. 1633 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 2761** A bill to be entitled An Act relating to requirements governing suitability in certain annuity transactions with consumers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 7, Insurance Code, is amended by adding Chapter 1115 to read as follows:

#### CHAPTER 1115. SUITABILITY OF CERTAIN ANNUITY TRANSACTIONS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1115.001. PURPOSE. The purpose of this chapter is to establish standards and procedures regarding recommendations made to a consumer that result in a transaction involving annuity products to ensure that the insurance needs and financial objectives of the consumer as of the time of the transaction are appropriately addressed.

Sec. 1115.002. DEFINITIONS. In this chapter:

(1) "Agent" means an individual who holds a license under Chapter 4054 and who sells, solicits, or negotiates insurance or annuity contracts in this state.

(2) "Annuity" means a fixed, variable, or modified guaranteed annuity that is individually solicited, whether classified as an individual annuity or group annuity.

(3) "Insurer" means an insurance company authorized to engage in the business of life insurance and annuities in this state.

(4) "Recommendation" means advice provided by an agent or insurer to an individual consumer that results in a purchase or exchange of an annuity made in accordance with that advice.

Sec. 1115.003. APPLICABILITY; EXEMPTIONS. (a) This chapter applies to any recommendation to purchase or exchange an annuity that:

(1) is made to a consumer by an agent or insurer; and

(2) results in the recommended purchase or exchange.

(b) Unless otherwise specifically included, this chapter does not apply to recommendations involving:

(1) direct response solicitations if there is no recommendation based on information collected from the consumer under this chapter; or

(2) contracts used to fund:

(A) an employee pension benefit plan or employee welfare benefit plan covered by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(B) a plan described by Section 401(a), 401(k), 403(b), 408(k), or 408(p), Internal Revenue Code of 1986, if established or maintained by an employer;

(C) a government or church plan, as defined by Section 414, Internal Revenue Code of 1986, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization described under Section 457, Internal Revenue Code of 1986;

(D) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(E) settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(F) prepaid funeral benefits contracts, as defined by Chapter 154, Finance Code.

Sec. 1115.004. NO CAUSE OF ACTION CREATED. This chapter may not be construed to create or imply a private cause of action for a violation of this chapter.

Sec. 1115.005. RULES. The commissioner may adopt reasonable rules in the manner prescribed by Subchapter A, Chapter 36, to accomplish and enforce the purpose of this chapter.

[Sections 1115.006-1115.050 reserved for expansion]

#### SUBCHAPTER B. DUTIES OF INSURERS AND AGENTS

Sec. 1115.051. SUITABILITY OF ANNUITY PRODUCT REQUIRED.

(a) Before the execution of a purchase or exchange of an annuity resulting from a recommendation, an agent, or the insurer if an agent is not involved, must make reasonable efforts to obtain:

(1) information from the consumer concerning:

(A) the consumer's financial status;

(B) the consumer's tax status; and

(C) the consumer's investment objectives; and

(2) other relevant information used or considered to be reasonable by the agent or that insurer in making recommendations to consumers.

(b) In a recommendation to a consumer regarding the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, an agent or the insurer, if an agent is not involved, has reasonable grounds for believing that the recommendation is suitable for that consumer based on the facts disclosed by the consumer regarding the consumer's:

(1) investments and other insurance products; and

(2) financial situation and needs.

(c) An agent, or an insurer if an agent is not involved, has no obligation to a consumer related to a recommendation if the consumer:

(1) refuses to provide relevant information requested by the agent or insurer;

(2) fails to provide complete or accurate information on the request of the agent or insurer; or

(3) decides to enter into a transaction that is not based on a recommendation of the agent or insurer.

(d) An agent's or insurer's recommendation subject to Subsection (a) must be reasonable under all the circumstances actually known to the agent or insurer at the time of the recommendation.

Sec. 1115.052. COMPLIANCE SYSTEM. (a) Each insurer shall operate a system, that is reasonably designed to achieve compliance with this chapter, to supervise recommendations.

(b) An insurer may comply with Subsection (a) by complying with Subsections (c)-(e) or by establishing and maintaining the insurer's own compliance system that complies with Subsection (c). Each agent and independent agency shall adopt an insurer's compliance system or shall establish and maintain such a system.

(c) A compliance system established under Subsection (b) must include:

(1) maintenance of written procedures; and  
(2) periodic reviews of the insurer's or agent's records in a manner reasonably designed to assist in detecting and preventing violations of this chapter.

(d) An agent or insurer may contract with a third party, including an agent or independent agency, to establish and maintain a compliance system with respect to agents under contract with or employed by the third party. The agent or insurer shall make reasonable inquiries sufficient to ensure that the third party is performing the functions required under Subsection (a), and shall take any action reasonable under the circumstances to enforce the contractual obligation to perform those functions. An agent or insurer may comply with the obligation to make reasonable inquiries by:

(1) annually obtaining certification from a senior manager of the third party that the third party is performing the required functions; and

(2) periodically selecting third parties, based on reasonable selection criteria, for a review to determine whether the third parties are performing the required functions.

(e) An agent or insurer shall adopt procedures for conducting a review under Subsection (d)(2) that are reasonable under the circumstances. An insurer that contracts with a third party under Subsection (d) and that complies with the requirements to supervise under Subsection (d) is deemed to have complied with the insurer's responsibilities under Subsection (b).

(f) An insurer, agent, or independent agency is not required by this section to:

(1) review, or provide for review of, all agent-solicited transactions; or  
(2) include in the compliance system an agent's recommendations to consumers of products other than the annuities offered by the insurer, agent, or independent agency.

Sec. 1115.053. CERTIFICATION REQUIREMENTS. (a) On request by an insurer, an agent or independent agency that contracts with an insurer under Section 1115.052(d) shall promptly obtain a certification as described under Section 1115.052(d)(1) or give a clear statement that it is unable to meet the certification criteria.

(b) A person may not provide a certification under Section 1115.052(d)(1) unless the person:

(1) is a senior manager with responsibility for the delegated functions;  
and

(2) has a reasonable basis for making the certification.

Sec. 1115.054. COMPLIANCE WITH CERTAIN NATIONAL STANDARDS. (a) Compliance with the conduct rules of the National Association of Securities Dealers relating to suitability, or the rules of another national organization recognized by the commissioner, satisfies the requirements under this chapter for the recommendation of variable annuities.

(b) This section does not affect or limit the commissioner's ability to enforce this chapter.

Sec. 1115.055. RECORDKEEPING REQUIREMENTS. (a) Each agent, independent agency, and insurer shall maintain, or otherwise be able to make available to the commissioner, records of the information collected from the

consumer and other information used in making a recommendation that was the basis for a transaction subject to this chapter until the fifth anniversary of the date on which the transaction is completed by the insurer.

(b) An insurer may, but is not required to, maintain documentation on behalf of an agent.

(c) Records required to be maintained under this section may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media by any process that accurately reproduces the actual document.

[Sections 1115.056-1115.100 reserved for expansion]

#### SUBCHAPTER C. ENFORCEMENT

Sec. 1115.101. MITIGATION. The commissioner may order:

(1) an insurer to take reasonable appropriate corrective action for any consumer harmed by the insurer or by the insurer's agent because of a violation of this chapter;

(2) an agent to take reasonably appropriate corrective action for any consumer harmed by the agent's violation of this chapter; and

(3) a managing general agent or independent agency that employs or contracts with an agent to sell, or solicit the sale of, annuities to consumers to take reasonably appropriate corrective action for any consumer harmed by the agent's violation of this chapter.

Sec. 1115.102. SANCTIONS. (a) The commissioner may impose sanctions as provided by Chapter 82 for a violation of this chapter.

(b) The commissioner may reduce or eliminate a sanction for a violation of this chapter otherwise applicable if corrective action for the consumer was taken promptly by the agent or insurer after a violation was discovered.

SECTION 2. This Act applies only to a recommendation to purchase or exchange an annuity contract made on or after January 1, 2008. A recommendation made before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 2819 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative Ritter called up with senate amendments for consideration at this time,

**HB 2819**, A bill to be entitled An Act relating to the management of coastal public land.

Representative Ritter moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2819**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2819**: Ritter, chair; Herrero, Ortiz, Garcia, and R. Cook.

**HB 3352 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Woolley called up with senate amendments for consideration at this time,

**HB 3352**, A bill to be entitled An Act relating to municipal civil service for firefighters and police officers in certain municipalities.

Representative Woolley moved to concur in the senate amendments to **HB 3352**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1634): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Flynn; Gonzalez Toureilles; Harper-Brown; Howard, C.; King, S.; Madden; Moreno.

**STATEMENT OF VOTE**

When Record No. 1634 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

**Senate Committee Substitute**

**CSHB 3352** A bill to be entitled An Act relating to municipal civil service for firefighters and police officers in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.025, Local Government Code, is amended by adding Subsection (k) to read as follows:

(k) This section does not apply to a police department located in a municipality with a population of 1.5 million or more.

SECTION 2. Section 143.057(d), Local Government Code, is amended to read as follows:

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral independent third party hearing examiners [~~arbitrators~~] from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The fire fighter or police officer and the department head, or their designees, may agree on one of the seven neutral independent third party hearing examiners [~~arbitrators~~] on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

SECTION 3. Sections 143.1015(e), (f), and (i), Local Government Code, are amended to read as follows:

(e) The hearing relating to the reasons for the fire fighter's or police officer's subpoena request shall be held on the date set for the original appeal hearing. If the commission overrules the subpoena request at the hearing:

(1) the commission may hear the fire fighter's or police officer's appeal on that date; or

(2) if the commission finds that justice is served by a continuance, the commission shall:

(A) reschedule the hearing to the commission's next regularly scheduled meeting; and

(B) give the fire fighter or police officer at least 15 days notice of that date.

(f) If the commission sustains the fire fighter's or police officer's subpoena request at the hearing, the commission shall:

(1) reschedule the appeal hearing date to the commission's next regularly scheduled meeting; and

(2) give the fire fighter or police officer at least 15 days notice of that date.

(i) A municipal employee who is subpoenaed to appear as a fact witness in any appeal of a disciplinary decision is entitled to applicable pay for the time the employee is required to be present at the hearing. Witnesses whose testimony relates primarily to the character or reputation of the employee shall be limited by the hearing examiner or commission if the testimony is repetitious or unduly prolongs the hearing. If the hearing examiner or commission limits the number of character or reputation witnesses, additional witness statements may be presented by affidavit. The character witnesses are not entitled to applicable pay for the time they are required to be present at the hearing.

SECTION 4. Section 143.1016, Local Government Code, is amended by amending Subsections (a), (d), (e), (h), and (k) and adding Subsection (l) to read as follows:

(a) In addition to the other notice requirements prescribed by this chapter, the letter of disciplinary action issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to a [~~an independent third party~~] hearing examiner instead of to the commission. The hearing examiner must be an independent third party hearing

examiner. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

(d) This subsection applies only if the parties have not established a selection procedure in an agreement pursuant to Subchapter J. If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head or their designees shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed and no motion to consolidate is filed under Subsection (l) [~~(k) of this section~~], the director shall on the next work day following notice that the parties have failed to agree on a selection of a hearing examiner request a list of seven qualified neutral hearing examiners [~~arbitrators~~] from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. The fire fighter or police officer and the department head or their designees may agree on one of the seven neutral hearing examiners [~~arbitrators~~] on the list. If they do not agree within 25 days after the date the appeal was filed, each party or the party's designee shall on the 25th day after the appeal was filed alternate striking a name from the list and the name remaining is the hearing examiner. In the event that the 25th day falls on a Saturday, Sunday, or a legal holiday, then the parties shall strike the list the next work day. The parties or their designees shall agree on a date for the hearing that is within the time period prescribed by Subsection (e). In the event that the director does not request the list of seven qualified neutral hearing examiners [~~arbitrators~~] within the time prescribed by this subsection or the department head or his designee fails to strike the list within the time prescribed by this subsection, the fire fighter or police officer or his designee shall select the hearing examiner [~~arbitrator~~] from the list provided. In the event that the fire fighter or police officer or his designee fails to strike the list within the time prescribed by this subsection, the department head or his designee shall select the hearing examiner [~~arbitrator~~] from the list provided.

(e) The appeal hearing must begin within 60 days after the date the appeal is filed and shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the fire fighter or police officer may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d) or a procedure established in an agreement pursuant to Subchapter J. If the appeal hearing is not begun within 60 days after the date the appeal is filed, the indefinite suspension, suspension, promotional pass over, or recommended demotion is upheld and the appeal is withdrawn if the fire fighter or police officer is not ready to proceed, and the appeal is sustained if the department head is not ready to proceed. In computing the 60-day period, a period of delay not to exceed 30 calendar days because of a continuance granted at the request of the department head or his representative or the fire fighter or police officer or his representative on good cause being shown, or because of the unavoidable unavailability of the hearing examiner on the date of the hearing, or because of the pendency of a motion to consolidate with another hearing as provided in Subsection (l) [~~(k) of this section~~] is excluded. In no event may a hearing examiner grant a continuance beyond 30 days in an indefinite suspension.

A hearing examiner may grant a continuance beyond the 30-day period upon good cause being shown in a disciplinary suspension unless the fire fighter or police officer has another disciplinary action pending.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the legal briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

(k) In an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, each appealing fire fighter or police officer or the appealing fire fighter's or police officer's representative shall be entitled to the selection of a hearing examiner to hear the case:

(1) pursuant to Subsection (d); or

(2) in accordance with a procedure established in an agreement pursuant to Subchapter J ~~[of this section to hear the case]~~.

(l) The fire fighter, police officer, department head, or a representative of any of those may, within 10 days of the date they received notice of the appeal, file a motion with a copy to the opposing side to consolidate the case with that of one or more other fire fighters or police officers where the charges arise out of the same incident. The motion to consolidate may be agreed to in writing and filed with the director. If a motion to consolidate the cases is filed and not agreed to, a hearing examiner shall be chosen to hear the motion pursuant to the provisions of Subsection (d) or in accordance with a procedure established in an agreement pursuant to Subchapter J ~~[of this section to hear the motion]~~. The decision of the hearing examiner shall be final and binding as to the issue of consolidation. The hearing examiner chosen to hear the motion to consolidate shall not hear the case, and the provisions of Subsection (d) or of a selection procedure established in an agreement pursuant to Subchapter J ~~[of this section]~~ shall be used to choose the hearing examiner with the day the decision is rendered being the equivalent of the date the appeal was filed.

SECTION 5. Subchapter G, Chapter 143, Local Government Code, is amended by adding Section 143.1041 to read as follows:

Sec. 143.1041. ENTRANCE EXAMINATION FOR BEGINNING PEACE OFFICER POSITION IN POLICE DEPARTMENT. (a) In this section, "police officer training academy" means a police officer training academy operated or sponsored by a municipality to which this section applies.

(b) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning peace officer positions in the police department. The examinations are open to each person who:

(1) makes a proper application;

(2) has been admitted to or is enrolled in a police officer training academy as an academy trainee; and

(3) meets the requirements prescribed by this chapter.

(c) The entrance examination may be administered to examinees only after the examinees are admitted to a police officer training academy and before the examinees graduate from the academy.

(d) An eligibility list for a beginning peace officer position in the police department may be created only as a result of the examination. Except as provided by Subsection (f), the examination must be held in the presence of each examinee. The examination must be based on the examinee's general knowledge

and aptitude and must inquire into the examinee's general education and mental ability. A person may not be appointed to the police department except as a result of the examination.

(e) An examinee may not take an examination unless at least one other examinee taking the examination is present.

(f) An entrance examination for beginning peace officer positions in the police department must be held at one or more locations in the municipality in which the police department is located and may be held at additional locations outside the municipality. An examination held at multiple locations must be administered on the same day and at the same time at each location at which it is given. To create one eligibility list, each member of a police officer training academy class shall take the examination at the same time and each examinee who takes that examination shall:

(1) take the same examination; and

(2) be examined in the presence of other examinees.

(g) An additional five points shall be added to the examination grade of an examinee who:

(1) served in the United States armed forces;

(2) received an honorable discharge from that service; and

(3) made a passing grade on the examination.

(h) The grade to be placed on the eligibility list for each examinee shall be computed by adding an examinee's points under Subsection (g), if any, to the examinee's grade on the written examination. Each examinee's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the examinee's answers to the questions. The minimum passing grade on the examination is 70 percent. An examinee must pass the examination to be placed on an eligibility list.

SECTION 6. Section 143.105, Local Government Code, is amended to read as follows:

Sec. 143.105. ELIGIBILITY FOR BEGINNING POSITION IN POLICE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a police department, a person must[-

~~(4)] be at least 21 years of age at the end of the probationary period and have: [5]~~

~~(1) [(2) have] served in the United States armed forces and received an honorable discharge; [or]~~

~~(2) [(3) have] earned at least 60 hours' credit in any area of study at an accredited college or university; or~~

~~(3) been employed full-time for at least five years as a peace officer licensed by:~~

~~(A) the Commission on Law Enforcement Officer Standards and Education; or~~

~~(B) an acceptable licensing entity in another state that has law enforcement officer licensing requirements substantially equivalent to those of Chapter 1701, Occupations Code.~~

SECTION 7. Section 143.352(2), Local Government Code, is amended to read as follows:

(2) "Police employee group" means an organization:

(A) in which at least three percent of the police officers of the municipality participate ~~[and pay dues via automatic payroll deduction]; and~~

(B) which exists for the purpose, in whole or part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, benefits other than pension benefits, hours of employment, or conditions of work affecting police officers.

SECTION 8. Subchapter J, Chapter 143, Local Government Code, is amended by adding Section 143.355 to read as follows:

Sec. 143.355. AUTOMATIC PAYROLL DEDUCTION OF POLICE EMPLOYEE GROUP DUES. A public employer that has recognized a police employee group as the sole and exclusive bargaining agent under Section 143.354 shall deduct police employee group dues via automatic payroll deduction for members of the employee group that has been recognized as the bargaining agent. Automatic payroll deduction for members of other police employee groups may be authorized by agreement between the chief executive officer of the public employer and the recognized bargaining agent.

SECTION 9. The changes in law made by this Act to Sections 143.057(d), 143.1015, and 143.1016, Local Government Code, apply only to an appeal initiated by a firefighter or police officer on or after the effective date of this Act. An appeal initiated before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 10 Section 143.1041, Local Government Code, as added by this Act, and the changes in law made by this Act to Section 143.025, Local Government Code, apply only to an examination administered for a position as a beginning peace officer on or after the effective date of this Act. An examination administered before the effective date of this Act and matters dependent on the examination are governed by the law in effect at the time the examination was administered, and the prior law is continued in effect for this purpose.

SECTION 11. The change in law made by this Act to Section 143.105, Local Government Code, applies only to a certification of eligibility for a beginning position in a police department that occurs on or after the effective date of this Act.

SECTION 12. This Act takes effect September 1, 2007.

### **HB 3367 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Straus called up with senate amendments for consideration at this time,

**HB 3367**, A bill to be entitled An Act relating to the change in boundaries by agreement between a general-law municipality with a population of more than 5,000 and a home-rule municipality with a population of more than 1.1 million.

Representative Straus moved to concur in the senate amendments to **HB 3367**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1635): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Castro; Farrar; Jones; Kuempel; Moreno.

### STATEMENT OF VOTE

When Record No. 1635 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

### Senate Committee Substitute

**CSHB 3367**, A bill to be entitled An Act relating to the change in boundaries by agreement between certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 43, Local Government Code, is amended by adding Section 43.035 to read as follows:

**Sec. 43.035. TRANSFER OF AREA AND CHANGE IN BOUNDARIES BETWEEN CERTAIN MUNICIPALITIES.** (a) This section applies only to an area that:

(1) is contiguous to the corporate boundaries of a municipality with a population of more than 5,000;

(2) is located within the corporate boundaries of a home-rule municipality with a population of more than 1.1 million;

(3) has no residents; and

(4) has located within the area a facility with over one million square feet of retail space that has remained primarily vacant for at least 18 months before the effective date of the boundary change agreement described by this section, as determined by the municipalities that are parties to the agreement.

(b) Before December 31, 2008, a home-rule municipality with a population of more than 1.1 million may enter into a boundary change agreement with a municipality with a population of more than 5,000 to release an area described by Subsection (a) from the more populous municipality's corporate boundaries and transfer the area to be included within the corporate boundaries of the other municipality. The boundary change agreement must:

(1) be adopted by ordinance or resolution of the governing body of each municipality; and

(2) contain a metes and bounds description of the area.

(c) The owners of a majority of the acreage of land contained in an area described by Subsection (a) must consent in writing to the release and transfer of the area to be included within the corporate boundaries of the other municipality. The owners' written consent to the release and transfer must:

(1) be submitted to each municipality that is a party to the boundary change agreement before the governing body of either municipality may approve the boundary change agreement; and

(2) contain a metes and bounds description of the area.

(d) The less populous municipality, as a term of the boundary change agreement, may agree to share a portion of that municipality's local sales tax revenue or ad valorem tax revenue, or both, attributable to the area that is the subject of the boundary change agreement, for a defined period, with the more populous municipality.

(e) The boundary change agreement may establish an effective date of the boundary change and may be subject to provisions that establish conditions precedent to the boundary change. On the effective date of the boundary change:

(1) the area released and transferred as authorized by this section ceases to be part of the more populous municipality and is included within the corporate boundaries of the less populous municipality for all purposes;

(2) the corporate boundaries of the less populous municipality are extended to include the area;

(3) the extraterritorial jurisdiction of each municipality is expanded or decreased in accordance with the changes in the municipality's boundaries; and

(4) the area that is the subject of the boundary change agreement is bound by the acts, ordinances, codes, resolutions, and regulations of the less populous municipality.

(f) Each municipality shall modify any official map or other applicable document to reflect the change in the municipality's boundaries.

(g) Notwithstanding any other provision of this chapter, Sections 43.031, 43.148, and 43.905 and Subchapters C and C-1 do not apply to an area that is the subject of, or a party to, a boundary change agreement authorized by this section.

(h) If a provision of the charter of a home-rule municipality described by Subsection (a)(2) is in conflict with any provision of this section, the provisions of this section prevail over the conflicting charter provision.

SECTION 2. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

(Castro and Moreno now present)

**HB 155 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Pickett called up with senate amendments for consideration at this time,

**HB 155**, A bill to be entitled An Act relating to correcting errors in the distribution of benefits by a public retirement system.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 155**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 155**: Pickett, chair; Rodriguez, Quintanilla, Solomons, and Truitt.

**HB 621 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Chavez called up with senate amendments for consideration at this time,

**HB 621**, A bill to be entitled An Act relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.

Representative Chavez moved to concur in the senate amendments to **HB 621**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1636): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; 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; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Aycock; Hill; Moreno.

**Senate Committee Substitute**

**CSHB 621**, A bill to be entitled An Act relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.253 to read as follows:

Sec. 11.253. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) In this section:

(1) "Dealer's motor vehicle inventory," "dealer's vessel and outboard motor inventory," "dealer's heavy equipment inventory," and "retail manufactured housing inventory" have the meanings assigned by Subchapter B, Chapter 23.

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is detained at a location in this state in which the owner of the property does not have a direct or indirect ownership interest for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(3) "Location" means a physical address.

(4) "Petroleum product" means a liquid or gaseous material that is an immediate derivative of the refining of oil or natural gas.

(b) A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the property determined under Section 23.01 or 23.12, as applicable, to determine the taxable value of the property.

(d) Except as provided by Subsections (f) and (g), the chief appraiser shall determine the appraised value of goods-in-transit under this subsection. The chief appraiser shall determine the percentage of the market value of tangible personal property owned by the property owner and used for the production of income in the preceding calendar year that was contributed by goods-in-transit. For the first year in which the exemption applies to a taxing unit, the chief appraiser shall determine that percentage as if the exemption applied in the preceding year. The chief appraiser shall apply that percentage to the market value of the property owner's tangible personal property used for the production of income for the current year to determine the appraised value of goods-in-transit for the current year.

(e) In determining the market value of goods-in-transit that in the preceding year were assembled, stored, manufactured, processed, or fabricated in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(f) If the property owner was not engaged in transporting goods-in-transit to another location in this state or outside this state for the entire preceding year, the chief appraiser shall calculate the percentage of the market value described in Subsection (d) for the portion of the year in which the property owner was engaged in transporting goods-in-transit to another location in this state or outside this state.

(g) If the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the goods-in-transit to be exempt by determining, according to the property owner's records and any other available information, the market value of those goods-in-transit owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for assembling, storing, manufacturing, processing, or fabricating purposes was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(i) Property that meets the requirements of this section constitutes goods-in-transit regardless of whether the person who owns the property on January 1 is the person who transports the property to another location in this state or outside this state.

(j) The governing body of a taxing unit, in the manner required for official action by the governing body, may provide for the taxation of goods-in-transit exempt under Subsection (b) and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(k) A property owner who receives the exemption from taxation provided by Subsection (b) is not eligible to receive the exemption from taxation provided by Section 11.251 for the same property.

SECTION 2. Section 26.012(15), Tax Code, is amended to read as follows:

(15) "Lost property levy" means the amount of taxes levied in the preceding year on property value that was taxable in the preceding year but is not taxable in the current year because the property is exempt in the current year under a provision of this code other than Section 11.251 or 11.253, the property has qualified for special appraisal under Chapter 23 ~~[of this code]~~ in the current year, or the property is located in territory that has ceased to be a part of the unit since the preceding year.

SECTION 3. Section 403.302(d), Government Code, is amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

~~(7) the~~ difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

SECTION 4. This Act applies only to taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2008.

### **HB 888 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Giddings called up with senate amendments for consideration at this time,

**HB 888**, A bill to be entitled An Act relating to the cost of obtaining copies of an injured employee's medical records for use by an ombudsman under the office of injured employee counsel's ombudsman program; providing an administrative violation.

Representative Giddings moved to concur in the senate amendments to **HB 888**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1637): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; Kruse; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; 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(C); Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Kuempel; Moreno; Mowery; Straus; Villarreal.

### Senate Committee Substitute

**CSHB 888**, A bill to be entitled An Act relating to the cost of obtaining copies of an injured employee's medical records for use by an ombudsman under the office of injured employee counsel's ombudsman program; providing an administrative violation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 404, Labor Code, is amended by adding Section 404.155 to read as follows:

Sec. 404.155. COST FOR CERTAIN COPIES OF MEDICAL RECORDS; ADMINISTRATIVE VIOLATION. (a) At the written request of an ombudsman designated under this subchapter who is assisting a specific injured employee, a health care provider shall provide copies of the injured employee's medical records to the ombudsman at no cost to the ombudsman or the office.

(b) The workers' compensation insurance carrier is liable to the health care provider for the cost of providing copies of the employee's medical records under this section. The insurance carrier may not deduct that cost from any benefit to which the employee is entitled.

(c) The amount charged for providing copies of an injured employee's medical records under this section is the amount prescribed by rules adopted by the commissioner for copying medical records.

(d) A health care provider may not require payment for the cost of providing copies of an injured employee's medical records under this section before providing the copies to the ombudsman.

(e) The public counsel may adopt rules regarding a time frame for the provision of copies of an injured employee's medical records under this section and any other matter relating to provision of those copies.

(f) A health care provider or insurance carrier that fails to comply with the requirements of this section or rules adopted under this section commits an administrative violation. The commissioner shall enforce a violation under this subsection in accordance with Chapter 415.

SECTION 2. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

**EMERGENCY CALENDAR  
SENATE BILLS  
THIRD READING**

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

**SB 2033 ON THIRD READING  
(Chisum - House Sponsor)**

**SB 2033**, A bill to be entitled An Act relating to the issuance of general obligation bonds by the Texas Public Finance Authority for certain maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

A record vote was requested.

**SB 2033** was passed by (Record 1638): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; 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(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Allen; Dutton; Moreno.

**STATEMENT OF VOTE**

When Record No. 1638 was taken, my vote failed to register. I would have voted yes.

Allen

**SB 1640 ON THIRD READING  
(Chisum and Guillen - House Sponsors)**

**SB 1640**, A bill to be entitled An Act relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

Representative Isett moved to postpone consideration of **SB 1640** until 4 p.m. today.

The motion prevailed.

**SB 1719 ON THIRD READING**  
**(Chisum - House Sponsor)**

**SB 1719**, A bill to be entitled An Act relating to the authority of the comptroller to pay certain claims and to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

A record vote was requested.

**SB 1719** was passed by (Record 1639): 146 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; 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.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — King, S.

The chair stated that **SB 1719** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

**MAJOR STATE CALENDAR**  
**SENATE BILLS**  
**THIRD READING**

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

**SB 909 ON THIRD READING**  
**(Madden, Kolkhorst, Flynn, Hochberg, and B. Cook - House Sponsors)**

**SB 909**, A bill to be entitled An Act relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles.

**Amendment No. 1**

Representative Madden offered the following amendment to **SB 909**:

Amend **SB 909** on third reading as follows:

(1) Strike proposed Sections 115.005 and 115.006, Health and Safety Code, as added by Floor Amendment No. \_\_\_\_ by Coleman (Floor amendment No. \_\_\_\_, page 2, line 11, through page 3, line 24), and substitute the following:

Sec. 115.005. POWERS AND DUTIES. (a) The center shall act as a clearinghouse for research and information relating to correctional public health and infectious disease issues.

(b) The center shall identify priorities for correctional health care providers, including performing behavioral interventions, performing health screenings, and providing immunizations.

(c) The center may work with state and local correctional health agencies, including the Correctional Managed Health Care Committee, in performing its duties.

Sec. 105.006. STAFF; AUTHORITY TO CONTRACT. The center may hire staff or may contract with universities or other suitable entities to assist the center in carrying out the center's duties.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS as appropriate.

SECTION \_\_\_\_\_. (a) The Texas Department of Criminal Justice shall contract with the University of Texas Health Science Center at Houston Institute for Health Policy to perform a study to provide research and recommendations regarding the prevention and reduction of communicable diseases in inmate populations that are most likely to come into contact with inmates in a correctional environment.

(b) The study should:

(1) identify and describe inmate public health threats such as HIV, sexually transmitted diseases, hepatitis B and C, tuberculosis, other communicable diseases, and other results of substance abuse;

(2) emphasize overall public health preventative programs, including programs that focus on risk situations and risky behavior; and

(3) evaluate the cost of interventions and demonstration projects.

(c) In conducting the study, the University of Texas Health Science Center at Houston Institute for Health Policy shall work with state and local correctional health agencies, including providers of correctional health care and the public health section of the Texas Department of Criminal Justice.

(d) The contract must require the University of Texas Health Science Center at Houston Institute for Health Policy to file with the Texas Department of Criminal Justice a report on the results of the study, with research findings and recommendations, not later than December 1, 2008. The health science center shall provide copies of the report to the legislature and the governor.

Amendment No. 1 was adopted.

## **Amendment No. 2**

Representative Hochberg offered the following amendment to **SB 909**:

Amend **SB 909** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subsection (a), Article 15.19, Code of Criminal Procedure, is amended to read as follows:

(a) If the arrested person [~~accused~~] fails or refuses to give bail, as provided in [~~the preceding~~] Article 15.18, the arrested person [~~he~~] shall be committed to the jail of the county where the person [~~he~~] was arrested; and the magistrate committing the arrested person [~~him~~] shall immediately provide notice to [~~notify~~] the sheriff of the county in which the offense is alleged to have been committed regarding:

(1) [~~of~~] the arrest and commitment, which notice may be given by telegraph, [~~by~~] mail, or [~~by~~] other written means; and

(2) whether the person was also arrested under a warrant issued under Section 508.251, Government Code [~~notice~~].

SECTION \_\_\_\_\_. Article 15.20, Code of Criminal Procedure, is amended to read as follows:

Art. 15.20. DUTY OF SHERIFF RECEIVING NOTICE. (a) Subject to Subsection (b), the [~~The~~] sheriff receiving the notice of arrest and commitment under Article 15.19 shall forthwith go or send for the arrested person [~~prisoner~~] and have the arrested person [~~him~~] brought before the proper court or magistrate.

(b) A sheriff who receives notice under Article 15.19(a)(2) of a warrant issued under Section 508.251, Government Code, shall have the arrested person brought before the proper magistrate or court before the 11th day after the date the person is committed to the jail of the county in which the person was arrested.

SECTION \_\_\_\_\_. Article 15.21, Code of Criminal Procedure, is amended to read as follows:

Art. 15.21. PRISONER DISCHARGED IF NOT TIMELY DEMANDED. If the proper office of the county where the offense is alleged to have been committed does not demand the arrested person [~~prisoner~~] and take charge of the arrested person before the 11th day after the date the person [~~him~~ ~~within ten days from the day he~~] is committed to the jail of the county in which the person is arrested, the arrested person [~~such prisoner~~] shall be discharged from custody.

SECTION \_\_\_\_\_. The change in law made by this Act to Articles 15.19(a), 15.20, and 15.21, Code of Criminal Procedure, apply only to a person who, on or after the effective date of this Act, is arrested under a warrant, regardless of the date on which the warrant under which the person is arrested was issued.

Amendment No. 2 was adopted.

### Amendment No. 3

Representative Bonnen offered the following amendment to **SB 909**:

Amend **SB 909** on third reading by adding an appropriately numbered SECTION to the bill to read as follows and renumbering subsequent SECTIONS of the book accordingly:

SECTION \_\_\_\_\_. Chapter 493, Government Code, is amended by adding Section 493.0022 to read as follows:

Sec. 493.0022. CHAPLAINCY DIVISION. (a) The chaplaincy division is a division within the department. The division shall provide chaplaincy and other spiritual services to inmates confined in the department and shall perform other tasks assigned by the board.

(b) The board shall employ a person as the director of the chaplaincy division. The director of the chaplaincy division reports directly to the board.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Haggerty offered the following amendment to **SB 909**:

Amend **SB 909** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 15(a)(1), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) On conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of a felony or unless the conviction resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense, in which event the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. The provisions of this subdivision requiring the judge to suspend the imposition of the sentence and place the defendant on community supervision do not apply to a defendant who under Section 481.1151(b)(1), Health and Safety Code, possessed more than five abuse units of the controlled substance or under Section 481.121(b)(3), Health and Safety Code, possessed more than one pound of marihuana.

SECTION \_\_\_\_\_. The change in law made by this Act in amending Section 15(a)(1), Article 42.12, Code of Criminal Procedure, applies only to a defendant placed on deferred adjudication community supervision for an offense committed on or after the effective date of this Act. A defendant placed on deferred adjudication for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 4 was adopted. (The vote was reconsidered later today and Amendment No. 4, as amended, was adopted.)

**Amendment No. 4 - Vote Reconsidered**

Representative Haggerty moved to reconsider the vote by which Amendment No. 4 was adopted.

The motion to reconsider prevailed.

**Amendment No. 5**

Representative Vaught offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 by Haggerty to **SB 909** by adding the following appropriately numbered item to the amendment and renumbering subsequent items of the amendment accordingly:

(\_\_\_\_\_) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 11.07, Code of Criminal Procedure, is amended by adding Section 4A and amending Section 5 to read as follows:

SECTION \_\_\_\_\_. Subsection (b), Section 5, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) On violation of a condition of community supervision imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 21 of this article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. This determination is reviewable in the same manner as a revocation hearing conducted under Section 21 in a case in which an adjudication of guilt had not been deferred ~~[No appeal may be taken from this determination]~~. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and defendant's appeal continue as if the adjudication of guilt had not been deferred. A court assessing punishment after an adjudication of guilt of a defendant charged with a state jail felony may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed, regardless of whether the defendant has previously been convicted of a felony.

SECTION \_\_\_\_\_. Subsection (b), Section 5, Article 42.12, Code of Criminal Procedure, as amended by this Act, applies to a hearing conducted under that section on or after the effective date of this Act, regardless of when the adjudication of guilt was originally deferred or when the offense giving rise to the grant of deferred adjudication community supervision was committed.

Amendment No. 5 was adopted.

Amendment No. 4, as amended, was adopted.

A record vote was requested.

**SB 909**, as amended, was passed by (Record 1640): 137 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; 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.; Delisi; 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; Hartnett; Heflin; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycok; Bohac; Bonnen; Harper-Brown; Laubenberg; Paxton; Phillips.

Present, not voting — Mr. Speaker; Keffer.

Absent — Davis, Y.; Deshotel; Hernandez; Talton.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1640. I intended to vote no.

Christian

I was shown voting yes on Record No. 1640. I intended to vote no.

O'Day

**REASON FOR VOTE**

While there are provisions of this sunset bill I agree with, the provisions of allowing for the early release of state jail confinees and the early release of offenders from probation are provisions that threaten our public safety and are unacceptable to me and, I believe, my constituents whom I represent. We must be tougher on crime, not weaker.

Bohac

**SB 11 ON THIRD READING  
(Corte - House Sponsor)**

**SB 11**, A bill to be entitled An Act relating to homeland security; providing penalties.

**Amendment No. 1**

Representative D. Howard offered the following amendment to **SB 11**:

Amend **SB 11** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 161.0001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to read as follows:

(1) "Data elements" means the information:

(A) a health care provider who administers a vaccine is required to record in a medical record under 42 U.S.C. Section 300aa-25, as amended, including:

(i) ~~(A)~~ the date the vaccine is administered;

~~(ii) (B)~~ the vaccine manufacturer and lot number of the vaccine;

(iii) any adverse or unexpected events for a vaccine; and

~~(iv) (C)~~ the name, the address, and if appropriate, the title of the health care provider administering the vaccine; and

(B) specified in rules adopted to implement Section 161.00705.

(1-a) "First responder" has the meaning assigned by Section 42T.095, Government Code.

(1-b) "Immediate family member" means the parent, spouse, child, or sibling of a person who resides in the same household as the person.

SECTION \_\_\_\_\_. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Sections 161.00705, 161.00706, and 161.00707 to read as follows:

Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The department shall maintain a registry of persons who receive an immunization, antiviral, and other medication administered to prepare

for a potential disaster, public health emergency, terrorist attack, hostile military or paramilitary action, extraordinary law enforcement emergency or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization, antiviral, or other medication shall provide the data elements to the department.

(b) The department shall maintain the registry as part of the immunization registry required by Section 161.007.

(c) The department shall track adverse reactions to an immunization, antiviral, and other medication administered to prepare for a potential disaster, public health emergency, terrorist attack, hostile military or paramilitary action, extraordinary law enforcement emergency or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization, antiviral, or other medication may provide data related to adverse reactions to the department.

(d) Sections 161.007, 161.0071, 161.0072, and 161.0074 apply to the data elements submitted to the department under this section, unless a provision in those sections conflicts with a requirement in this section.

(e) The executive commissioner of the Health and Human Services Commission by rule shall determine the period during which the information collected under this section must remain in the immunization registry following the end of the disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(f) Unless an individual or, if a child, the child's parent, managing conservator, or guardian consents in writing to continued inclusion of the child's or other individual's information in the registry, the department shall remove the immunization records collected under this section from the registry on expiration of the period prescribed under Subsection (e).

(g) The immunization information of a child or other individual received by the department under this section, including individually identifiable information, may be released only:

(1) on consent of the individual or, if a child, the child's parent, managing conservator, or guardian; or

(2) to a state agency or health care provider consistent with the purposes of this subchapter or the purposes of aiding or coordinating communicable disease prevention and control efforts during a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(h) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to remove information from the registry as required by Subsection (f).

(i) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement this section.

Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION. (a) A person 18 years of age or older who is a first responder or an immediate family member of a first responder may:

(1) request that a health care provider who administers an immunization to the person provide data elements regarding the immunization to the department for inclusion in the immunization registry; or

(2) provide the person's immunization history directly to the department for inclusion in the immunization registry.

(b) A health care provider, on receipt of a request under Subsection (a)(1), shall submit the data elements to the department in a format prescribed by the department. The department shall verify the person's request before including the information in the immunization registry.

(c) The executive commissioner of the Health and Human Services Commission shall:

(1) develop rules to ensure that immunization history submitted under Subsection (a)(2) is medically verified immunization information;

(2) develop guidelines for use by the department in informing first responders about the registry; and

(3) adopt rules necessary for the implementation of this section.

(d) A person's immunization history or data received by the department under this section may be released only on consent of the person or to any health care provider licensed or otherwise authorized to administer vaccines.

(e) A person whose immunization records are included in the immunization registry as authorized by this section may request in writing that the department remove that information from the registry. Not later than the 10th day after receiving a request under this subsection, the department shall remove the person's immunization records from the registry.

(f) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to comply with requests for removal of information from the registry under Subsection (e).

Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST RESPONDERS. The department shall develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the immunization registry, including:

(1) ensuring that first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, declared disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(2) preventing duplication of vaccinations.

SECTION \_\_\_\_\_. Section 161.007, Health and Safety Code, is amended by amending Subsections (a), (b), and (j) and adding Subsections (b-1) and (b-2) to read as follows:

(a) The department, for the primary purpose [~~purposes~~] of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective childhood communicable disease prevention and control efforts, shall establish and maintain an [~~a childhood~~] immunization registry. The department by rule shall develop guidelines to:

(1) protect the confidentiality of patients in accordance with Section 159.002, Occupations Code;

(2) inform a parent, managing conservator, or guardian of each patient younger than 18 years of age about the registry;

(3) require the written consent of a parent, managing conservator, or guardian of a patient younger than 18 years of age before any information relating to the patient is included in the registry; [~~and~~]

(4) permit a parent, managing conservator, or guardian of a patient younger than 18 years of age to withdraw consent for the patient to be included in the registry; and

(5) determine the process by which consent is verified, including affirmation by a health care provider, birth registrar, regional health information exchange, or local immunization registry that consent has been obtained.

(b) The ~~childhood~~ immunization registry must contain information on the immunization history that is obtained by the department under:

(1) this section of each person who is younger than 18 years of age and for whom consent has been obtained in accordance with guidelines adopted under Subsection (a);

(2) Section 161.00705 of persons immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(3) Section 161.00706 of first responders or their immediate family members.

(b-1) The department shall remove from the registry information for any person for whom consent has been withdrawn. The department may not retain individually identifiable information about any person:

(1) for whom consent has been withdrawn;

(2) for whom a consent for continued inclusion in the registry following the end of the declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency has not been received under Section 161.00705(f); or

(3) for whom a request to be removed from the registry has been received under Section 161.00706(e).

(b-2) Except as otherwise provided by this subchapter, the department shall retain the information in the registry until the person's death. Not later than the 180th day after the date a person whose immunization information is included in the registry turns 18 years of age, the department shall notify the person that the information will remain in the registry unless the person withdraws consent to be included in the registry.

(j) Except as provided by Sections 161.00705, 161.00706, and ~~[Section]~~ 161.008, information obtained by the department for the immunization registry is confidential and may be disclosed only with the written consent of the individual or, if a child, the child's parent, managing conservator, or guardian.

SECTION \_\_\_\_\_. Subsections (a) and (c), Section 161.0073, Health and Safety Code, are amended to read as follows:

(a) Except as provided by Section 161.00705, ~~[The]~~ information that individually identifies a child or other individual that is received by the department for the immunization registry is confidential and may be used by the department for registry purposes only.

(c) A person required to report information to the department for registry purposes or authorized to receive information from the registry may not disclose the individually identifiable information of a child or other individual to any other person without written consent of the individual or, if a child, the parent, managing conservator, or guardian of the child, except as provided by Chapter 159, Occupations Code, or Section 602.053, Insurance Code.

SECTION \_\_\_\_\_. Section 161.0075, Health and Safety Code, is amended to read as follows:

Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided by Section 161.009, the following persons subject to this subchapter that act in compliance with Sections 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not civily or criminally liable for furnishing the information required under this subchapter:

- (1) a payor;
- (2) a health care provider who administers immunizations; and
- (3) an employee of the department.

SECTION \_\_\_\_\_. Subsection (a), Section 161.009, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person:

- (1) negligently releases or discloses immunization registry information in violation of Section 161.007, 161.0071, 161.0073, or 161.008;
- (2) fails to exclude a child's immunization information in violation of Section 161.0071; ~~[or]~~
- (3) fails to remove a person's immunization information in violation of Section 161.00705 or 161.00706; or

(4) negligently uses information in the immunization registry to solicit new patients or clients or for other purposes that are not associated with immunization or quality-of-care purposes, unless authorized under this section.

SECTION \_\_\_\_\_. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0102 to read as follows:

Sec. 161.0102. DISASTER PREPARATION. The department shall consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

SECTION \_\_\_\_\_. Subsection (a), Section 161.0105, Health and Safety Code, is amended to read as follows:

(a) A health care provider who acts in compliance with Sections 161.007, 161.00705, 161.00706, and 161.008 and any rules adopted under those sections is not civily or criminally liable for furnishing the information required under those sections. This subsection does not apply to criminal liability established under Section 161.009.

SECTION \_\_\_\_\_. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required under Sections 161.00705 and 161.00706, Health and Safety Code, as added by this Act.

SECTION \_\_\_\_\_. The change in law made by this Act to Section 161.009, Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 1 was adopted.

## **Amendment No. 2**

Representative Allen offered the following amendment to **SB 11**:

Amend **SB 11** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 644.102, Transportation Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A municipality or county that engages in enforcement under this chapter:

(1) shall pay all costs relating to the municipality's or county's enforcement;

(2) may not be considered, in the context of a federal grant related to this chapter:

(A) a party to a federal grant agreement, except as provided by Subsection (b-1); or

(B) a grantee under a federal grant to the department; and

(3) must comply with the standards established under Subsection (a).

(b-1) Subsection (b) does not prohibit a municipality or county from receiving High Priority Activity Funds provided under the federal Motor Carrier Safety Assistance Program.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Pierson offered the following amendment to **SB 11**:

Amend **SB 11** on third reading, in the SECTION of the bill that amends Section 418.108, Government Code, immediately following proposed Subsection (i), by inserting, "This subsection does not apply to a county in which the majority of the population of two or more municipalities with a population of 300,000 or more are located."

Amendment No. 3 was withdrawn.

### **Amendment No. 4**

Representative Jackson offered the following amendment to **SB 11**:

Amend **SB 11** on 3rd reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_\_. DISEASE MANAGEMENT

SECTION \_\_\_\_\_.01. Section 81.082, Health and Safety Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A health authority may designate health care facilities within the health authority's jurisdiction that are capable of providing services for the examination, observation, quarantine, isolation, treatment, or imposition of control measures during a public health disaster or during an area quarantine under Section 81.085. A health authority may not designate a nursing home or other institution licensed under Chapter 242.

SECTION \_\_\_\_\_.02. Section 81.083, Health and Safety Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) If the department or a health authority has reasonable cause to believe that a group of five or more individuals has been exposed to or infected with a communicable disease, the department or health authority may order the members of the group to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in

this state. If the department or health authority adopts control measures under this subsection, each member of the group is subject to the requirements of this section.

(1) An order under Subsection (k) must be in writing and be delivered personally or by registered or certified mail to each member of the group, or the member's parent, legal guardian, or managing conservator if the member is a minor. If the name, address, and county of residence of any member of the group is unknown at the time the order is issued, the department or health authority must publish notice in a newspaper of general circulation in the county that includes the area of the suspected exposure and any other county in which the department or health authority suspects a member of the group resides. The notice must contain the following information:

(1) that the department or health authority has reasonable cause to believe that a group of individuals is ill with, has been exposed to, or is the carrier of a communicable disease;

(2) the suspected time and place of exposure to the disease;

(3) a copy of any orders under Subsection (k);

(4) instructions to an individual to provide the individual's name, address, and county of residence to the department or health authority if the individual knows or reasonably suspects that the individual was at the place of the suspected exposure at the time of the suspected exposure;

(5) that the department or health authority may request that an application for court orders under Subchapter G be filed for the group, if applicable; and

(6) that a criminal penalty applies to an individual who:

(A) is a member of the group; and

(B) knowingly refuses to perform or allow the performance of the control measures in the order.

SECTION \_\_.03. Section 81.151, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) A single application may be filed for a group if:

(1) the department or health authority reasonably suspects that a group of five or more persons has been exposed to or infected with a communicable disease; and

(2) each person in the group meets the criteria of this chapter for court orders for the management of a person with a communicable disease.

SECTION \_\_\_\_ .04. Subchapter G, Chapter 81, Health and Safety Code, is amended by adding Section 81.1511 to read as follows:

Sec. 81.1511. APPLICABILITY OF SUBCHAPTER TO GROUP. To the extent possible, and except as otherwise provided, if a group application is filed under Section 81.151(e), the provisions of this subchapter apply to the group in the same manner as they apply to an individual, except that:

(1) except as provided by Subdivision (2), any statement or determination regarding the conduct or status of a person must be made in regard to the majority of the members of the group;

(2) any finding or statement related to compliance with orders under Section 81.083 must be made for the entire group;

(3) any notice required to be provided to a person must:

(A) in addition to being sent to each individual in the group for whom the department or health authority has an address, be published in a newspaper of general circulation in the county that includes the area of the suspected contamination and any other county in which the department or health authority suspects a member of the group resides;

(B) state that the group is appointed an attorney but that a member of the group is entitled to the member's own attorney on request; and

(C) include instructions for any person who reasonably suspects that the person was at the place of the suspected exposure at the time of the suspected exposure to provide the person's name, address, and county of residence to the department or health authority; and

(4) an affidavit of medical evaluation for the group may be based on evaluation of one or more members of the group if the physician reasonably believes that the condition of the individual or individuals represents the condition of the majority of the members of the group.

SECTION \_\_\_\_ .05. Section 81.152, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A group application must contain the following information according to the applicant's information and belief:

(1) a description of the group and the location where the members of the group may be found;

(2) a narrative of how the group has been exposed or infected;

(3) an estimate of how many persons are included in the group;

(4) to the extent known, a list containing the name, address, and county of residence in this state of each member of the group;

(5) if the applicant is unable to obtain the name and address of each member of the group:

(A) a statement that the applicant has sought each of the unknown names and addresses; and

(B) the reason that the names and addresses are unavailable; and

(6) a statement, to be included only in an application for inpatient treatment, that the members of the group fail or refuse to comply with written orders of the department or health authority under Section 81.083, if applicable.

SECTION \_\_\_\_ .06. Subchapter G, Chapter 81, Health and Safety Code, is amended by adding Section 81.1531 to read as follows:

Sec. 81.1531. APPOINTMENT OF ATTORNEY FOR GROUP. (a) A judge shall appoint an attorney to represent a group identified in a group application under Section 81.151(e) and shall appoint an attorney for each person who is listed in the application if requested by a person in the group who does not have an attorney.

(b) To the extent possible, the provisions of this chapter that apply to an individual's attorney apply to a group's attorney.

SECTION \_\_\_\_ .07. Subsection (a), Section 81.159, Health and Safety Code, is amended to read as follows:

(a) The commissioner shall designate health care facilities throughout the state that are capable of providing services for the examination, observation, isolation, or treatment of persons having or suspected of having a communicable disease. However, the commissioner may not designate:

(1) a nursing home or custodial care home required to be licensed under Chapter 242; or

(2) an intermediate care facility for the mentally retarded required to be licensed under Chapter 252.

SECTION \_\_\_\_ .08. Section 81.162, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding Section 81.161 or Subsection (c), a judge or magistrate may issue a temporary protective custody order before the filing of an application for a court order for the management of a person with a communicable disease under Section 81.151 if:

(1) the judge or magistrate takes testimony that an application under Section 81.151, together with a motion for protective custody under Section 81.161, will be filed with the court on the next business day; and

(2) the judge or magistrate determines based on evidence taken under Subsection (d) that there is probable cause to believe that the person presents a substantial risk of serious harm to himself or others to the extent that the person cannot be at liberty pending the filing of the application and motion.

(g) A temporary protective custody order issued under Subsection (f) may continue only until 4 p.m. on the first business day after the date the order is issued unless the application for a court order for the management of a person with a communicable disease and a motion for protective custody, as described by Subsection (f)(1), are filed at or before that time. If the application and motion are filed at or before 4 p.m. on the first business day after the date the order is issued, the temporary protective custody order may continue for the period reasonably necessary for the court to rule on the motion for protective custody.

SECTION \_\_\_\_ .09. Subsections (b) and (d), Section 81.165, Health and Safety Code, are amended to read as follows:

(b) The hearing must be held not later than 72 hours after the time that the person was detained under the protective custody order. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions that threaten the safety of the person or another essential party to the hearing. If the area in which the person is found, or the area where the hearing will be held, is under a public health disaster, the judge or magistrate may postpone the hearing until the period of disaster is ended.

(d) The person and his attorney shall have an opportunity at the hearing to appear and present evidence to challenge the allegation that the person presents a substantial risk of serious harm to himself or others. If the health authority advises the court that the person must remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons and the public health, a magistrate or a master may order that a person entitled to a hearing for a protective custody order may not appear in person and may appear only by teleconference or another means the magistrate or master finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney.

SECTION \_\_\_\_ .10. Subsections (b) and (c), Section 81.167, Health and Safety Code, are amended to read as follows:

(b) A person under a protective custody order shall be detained in an appropriate inpatient health facility that has been designated by the commissioner or by a health authority and selected by the health authority under Section 81.159.

(c) A person under a protective custody order may be detained in a nonmedical facility used to detain persons who are charged with or convicted of a crime only with the consent of the medical director of the facility and only if the facility has respiratory isolation capability for airborne communicable diseases. The person may not be detained in a nonmedical facility under this subsection for longer than 72 hours, excluding Saturdays, Sundays, legal holidays, ~~and~~ the period prescribed by Section 81.165(b) for an extreme weather emergency, and the duration of a public health disaster. The person must be isolated from any person who is charged with or convicted of a crime.

SECTION \_\_\_\_ .11. Subsection (c), Section 81.168, Health and Safety Code, is amended to read as follows:

(c) The head of a facility shall discharge a person held under a protective custody order if:

(1) the head of the facility does not receive notice within 72 hours after detention begins, excluding Saturdays, Sundays, legal holidays, ~~and~~ the period prescribed by Section 81.165(b) for an extreme weather emergency, and the duration of a public health disaster, that a probable cause hearing was held and the person's continued detention was authorized;

(2) a final court order for the management of a person with a communicable disease has not been entered within the time prescribed by Section 81.154; or

(3) the health authority or commissioner determines that the person no longer meets the criteria for protective custody prescribed by Section 81.162.

SECTION \_\_\_\_ .12. Section 81.169, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (d), if the health authority advises the court that the person must remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons and the public health, a judge may order that a person entitled to a hearing may not appear in person and may appear only by teleconference or another means that the judge finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney.

SECTION \_\_\_\_ .13. Section 81.176, Health and Safety Code, is amended to read as follows:

Sec. 81.176. DESIGNATION OF FACILITY. In a court order for the temporary or extended management of a person with a communicable disease specifying inpatient care, the court shall commit the person to a health care facility designated by the commissioner or a health authority in accordance with Section 81.159.

SECTION \_\_\_\_ .14. Section 81.177, Health and Safety Code, is amended to read as follows:

Sec. 81.177. COMMITMENT TO PRIVATE FACILITY. (a) The court may order a person committed to a private health care facility at no expense to the state if the court receives:

(1) an application signed by the person or the person's guardian or next friend requesting that the person be placed in a designated private health care facility at the person's or applicant's expense; and

(2) a written agreement from the head of the private health care facility to admit the person and to accept responsibility for the person in accordance with this chapter.

(b) Consistent with Subsection (a), the court may order a person committed to a private health care facility at no expense to the state, a county, a municipality, or a hospital district if:

(1) a state of disaster or a public health disaster has been declared or an area quarantine is imposed under Section 81.085;

(2) the health care facility is located within the disaster area or area quarantine, as applicable; and

(3) the judge determines that there is no public health care facility within the disaster area or area quarantine, as applicable, that has appropriate facilities and the capacity available to receive and treat the person.

(c) Nothing in this section prevents a health care facility that accepts a person under this section from pursuing reimbursement from any appropriate source, such as a third-party public or private payor or disaster relief fund.

Amendment No. 4 was adopted.

**Amendment No. 5**

Representative Phillips offered the following amendment to **SB 11**:

Amend **SB 11** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE \_\_\_\_ . SUSPENSION, REVOCATION, OR CANCELLATION OF DRIVER'S LICENSES AND RELATED DOCUMENTS

SECTION \_\_\_\_ .01. Subsection (a), Section 521.292, Transportation Code, is amended to read as follows:

(a) The department shall suspend the person's license if the department determines that the person:

(1) has operated a motor vehicle on a highway while the person's license was suspended, canceled, disqualified, or revoked, or without a license after an application for a license was denied;

(2) is a habitually reckless or negligent operator of a motor vehicle;

(3) is a habitual violator of the traffic laws;

(4) has permitted the unlawful or fraudulent use of the person's license;

(5) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for suspension;

(6) has been convicted of two or more separate offenses of a violation of a restriction imposed on the use of the license;

(7) has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;

(8) is the holder of a provisional license issued under Section 521.123 or an instruction permit under Section 521.222 and has been convicted of two or more moving violations committed within a 12-month period; or

(9) has committed an offense under Section 545.421.

SECTION \_\_\_\_ .02. Section 521.294, Transportation Code, is amended to read as follows:

Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE REVOCATION. The department shall revoke the person's license if the department determines that the person:

(1) is incapable of safely operating a motor vehicle;

(2) has not complied with the terms of a citation issued by a jurisdiction that is a party to the Nonresident Violator Compact of 1977 for a traffic violation to which that compact applies;

(3) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the medical advisory board;

(4) has failed to pass an examination or to provide any information relating to the person's ability to safely operate a motor vehicle as required by the director under this chapter;

(5) has been reported by a court under Section 521.3452 for failure to appear unless the court files an additional report on final disposition of the case;

(6) has been reported within the preceding two years by a justice or municipal court for failure to appear or for a default in payment of a fine for a misdemeanor punishable only by fine, other than a failure reported under Section 521.3452, committed by a person who is at least 14 years of age but younger than 17 years of age when the offense was committed, unless the court files an additional report on final disposition of the case; or

(7) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for revocation.

SECTION \_\_\_\_ .03. Subsection (a), Section 521.295, Transportation Code, is amended to read as follows:

(a) ~~On a determination that the person meets the criteria for [H] the department to initiate enforcement action [suspends a person's license] under Section 521.292 or [revokes a person's license under Section] 521.294, the department shall send a notice of suspension or revocation [by first class mail] to the person's address in the records of the department.~~

SECTION \_\_\_\_ .04. Section 521.314, Transportation Code, is amended to read as follows:

Sec. 521.314. CANCELLATION AUTHORITY. The department may cancel a license or certificate if it determines that the holder:

(1) was not entitled to the license or certificate; ~~or~~

(2) failed to give required information in the application for the license or certificate;

(3) failed to update personal information on the license or certificate;

~~(4) failed to remit payment of a driver's license fee imposed under this chapter or Chapter 522; or~~

~~(5) issued a check or draft drawn on a bank or trust company in payment of a driver's license fee imposed under this chapter or Chapter 522 that is returned unpaid because of insufficient funds or no funds in the bank or trust company to the credit of the drawer of the check or draft.~~

SECTION \_\_\_\_ .05. Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

(1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;

(2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;

(4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(5) an offense punishable as a felony under the motor vehicle laws of this state;

(6) an offense under Section 550.021; or

(7) an offense under Section 521.451 or 521.453.

SECTION \_\_\_\_\_.06. Subsections (a) and (b), Section 521.342, Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION \_\_\_\_\_.07. Subsections (a), (c), (g), and (i), Section 521.344, Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

~~(2) whose period of suspension is governed by Section 521.342(b).~~

(g) A revocation, suspension, or prohibition order under Subsection (e) or (f) remains in effect until the department receives notice of successful completion of the educational program. The director shall promptly send notice of a revocation or prohibition order issued under Subsection (e) or (f) by first class mail to the person at the person's most recent address as shown in the records of the department. The notice must include the date of the revocation or prohibition order, the reason for the revocation or prohibition, and a statement that the person has the right to request in writing that a hearing be held on the revocation or prohibition. Notice is considered received on the fifth day after the date the notice is mailed. A revocation or prohibition under Subsection (e) or (f) takes effect on the 40th ~~30th~~ day after the date the person is considered to have received notice of revocation or prohibition under Section 521.295 ~~notice is mailed~~. The person may request a hearing not later than the 20th day after the date the notice is mailed. If the department receives a request under this subsection, the department shall set the hearing for the earliest practical time and the revocation or prohibition does not take effect until resolution of the hearing.

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION     .08. Subsections (h) and (n), Section 13, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was ~~was~~ younger than 21 years of age at the time of the offense and convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

SECTION \_\_\_\_\_.09. (a) Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0206 to read as follows:

Sec. 411.0206. ABATEMENT OR DEFERRAL FOR VICTIMS OF IDENTITY THEFT. (a) In this section:

(1) "License" means a license, certificate, permit, or other authorization issued by the department.

(2) "Victim of identity theft" means an individual who has filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint.

(b) The department may abate or defer a mandatory suspension or revocation of a license if the license holder presents evidence acceptable to the department that:

(1) the license holder is the victim of identity theft; and

(2) the person against whom a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

(b) This section 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, this Act takes effect September 1, 2007.

SECTION \_\_\_\_\_.10. (a) The changes in law made by this article to Sections 521.292, 521.294, 521.295, and 521.314, Transportation Code, apply only to a determination to suspend, revoke, or cancel a license or certificate made by the Department of Public Safety of the State of Texas on or after the effective date of this Act.

(b) The changes in law made by this article to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

Amendment No. 5 was adopted. (The vote was reconsidered later today and Amendment No. 5 was withdrawn.)

### **Amendment No. 6**

Representative Burnam offered the following amendment to **SB 11**:

Amend **SB 11** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 20A.01, Penal Code, is amended to read as follows:

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including employment for legal labor or services and conduct that constitutes an offense under Chapter 43 or Section 48.02, that are performed or provided by another person and obtained or maintained through an actor's:

(A) using force against the person or another person, threatening to cause bodily injury to the person or another person, or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining the person or another person ~~[another]~~ in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained; ~~[or]~~

(C) destroying or withholding from another the person's:

(i) actual or purported government records;

(ii) actual or purported identifying information; or

(iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, ~~[another person or to]~~ entice, solicit, recruit, harbor, provide, or otherwise obtain another person by any means ~~[for transport by deception, coercion, or force]~~.

SECTION \_\_\_\_\_. Sections 20A.02(a) and (b), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person:

(1) knowingly traffics another person with the intent or knowledge that the trafficked person will engage in ~~[=~~

~~[(1)]~~ forced labor or services; or

(2) intentionally or knowingly benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services that the actor knows are forced labor or services ~~[conduct that constitutes an offense under Chapter 43]~~.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Chapter 43 ~~[offense is committed under Subsection (a) (2)]~~ and the person who is trafficked is younger than 18 ~~[14]~~ years of age at the time of the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION \_\_\_\_\_. The changes in law made by this Act to Sections 20A.01 and 20A.02, Penal Code, apply only to an offense committed on or after September 1, 2007. An offense committed before September 1, 2007, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before September 1, 2007, if any element of the offense occurs before that date.

Amendment No. 6 was adopted.

**Amendment No. 7**

On behalf of Representative P. King, Representative Corte offered the following amendment to **SB 11**:

Amend **SB 11** on third reading in the SECTION of the bill that amends Section 418.108, Government Code, by adding the following subsection to Section 418.108, Government Code:

(j) A member of the senate or house of representatives may petition the governor to declare a local state of disaster. The governor must act on a petition received from a member under this subsection not later than the 10th day after the date the governor receives the petition. A declaration of local disaster under this subsection activates the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration in accordance with this section.

Amendment No. 7 was adopted.

**SB 11 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HEFLIN: Mr. Isett, you and I talked about your amendment and what it does and what it does not do.

REPRESENTATIVE ISETT: Yes, sir.

HEFLIN: And you're not trying to strip the county judges of any of their authority that they already have in place?

ISETT: Absolutely not. All we do is reaffirm what the Texas Association of Counties knows that what regulates fireworks, the driving code on that, and that's 352051 of the Local Government Code, and all the amendment said was 352051 is what describes what counties can and cannot do, with respect to regulating fireworks or the use of fireworks, and all my amendment said was, you've got to follow 352051. And that's why I included for you all the letter from the Texas Association of Counties, their form letter, that tells counties that 352051 is the law that they operate under with regard to fireworks and how to go about banning the use or the sale of prohibited or restricted fireworks.

HEFLIN: Okay.

ISETT: You're exactly right. I did not in any way intend nor do I believe my amendment does anything that restricts them beyond 352051.

HEFLIN: Okay, and in your amendment you quote Section 418108 of the Government Code. That outlines the counties' declaration and disaster authority.

ISETT: Yes, sir. The title of that section is "Declaration of Local Disaster" and when I wrote my amendment, I went ahead, rather than giving you the last piece that I added, I went ahead and printed the entire piece out in the amendment so members could see where I was adding it.

HEFLIN: Okay, and on line 21 of your amendment, you just say that a declaration under this section may include any restriction authorized by Section 352051 of the Local Government Code, which is the fireworks code, is that correct?

ISETT: Exactly. That you may use anything in 352051, and then it goes on to say that you may not exceed it, which means that if you exceeded it you would be breaking the law, and I don't think county judges want to do that.

HEFLIN: Okay, so you are just saying that this is the law and the county judges have the authority to declare disasters and follow the law.

ISETT: Yes, sir.

HEFLIN: So you're not trying to say that county judges cannot do their office properly?

ISETT: No, sir.

HEFLIN: You're not trying to limit them in any fashion?

ISETT: No, sir.

#### **REMARKS ORDERED PRINTED**

Representative Heflin moved to print remarks between Representative Isett and Representative Heflin.

The motion prevailed.

#### **Amendment No. 5 - Vote Reconsidered**

Representative Phillips moved to reconsider the vote by which Amendment No. 5 was adopted.

The motion to reconsider prevailed.

Amendment No. 5 was withdrawn.

#### **SB 11 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE NORIEGA: Mr. Isett, some of us from Harris County just received a letter from some of our commissioners and perhaps, for the purposes of clarification, I think there was perhaps some misunderstanding that what your amendment was doing would perhaps usurp the county's authority and diminish the county's ability to defend against the threat of wildfires or property destruction caused by fireworks during a drought. Could you speak to that please?

REPRESENTATIVE ISETT: Sure, and again I'll go back to the conversation I had with Representative Heflin, there is a provision in law that gives counties the ability to restrict the use, and in certain circumstances the sale of fireworks, during conditions of drought. It's 352051, and it lays out how you go about doing it. In fact the counties do a really good job of explaining that in their letter and then they add the code and then they add the declaration itself—an order prohibiting certain fireworks. And all we do is try to do that.

A record vote was requested.

**SB 11**, as amended, was passed by (Record 1641): 146 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Coleman.

Present, not voting — Mr. Speaker.

Absent — Bonnen; Ritter.

### REMARKS ORDERED PRINTED

Representative Noriega moved to print remarks between Representative Isett and Representative Noriega.

The motion prevailed.

### HR 2583 - ADOPTED (by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 2583**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2583**, Congratulating legislative staffer Paige Bruton on her graduation with honors from The University of Texas School of Law.

**HR 2583** was read and was adopted.

### SB 23 ON THIRD READING (Smithee - House Sponsor)

**SB 23**, A bill to be entitled An Act relating to promoting the purchase and availability of health coverage.

**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. 3).

**SB 23 - (consideration continued)****Amendment No. 1**

Representative Noriega offered the following amendment to **SB 23**:

Amend **SB 23** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

## ARTICLE \_\_\_\_ . STUDENT HEALTH CENTERS

SECTION \_\_\_\_ . Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.953 to read as follows:

Sec. 51.953. STUDENT HEALTH CENTER. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual or group health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) The governing board of an institution of higher education may require the institution's student health center to assist a student or other person entitled to obtain health care services from the health center in receiving benefits under a health benefit plan by filing or having a claim filed with the health benefit plan issuer on behalf of the student or other person.

(c) An institution of higher education on behalf of the institution's student health center located within the geographic service area of a health benefit plan may contract with the health benefit plan issuer to provide health care services under the plan to students or other persons entitled to obtain health care services from the health center who are covered by the plan.

(d) Amounts received by an institution of higher education from a health benefit plan issuer as a result of a claim filed with the issuer by or on behalf of the institution's student health center are institutional funds under Section 51.009 and may be used only for the construction, improvement, operation, or maintenance of the student health center or to increase or enhance the services offered by the student health center. It is the intent of the legislature that those amounts be in addition to other amounts of money allocated to the student health center and those other amounts not be reduced.

(e) Not later than January 15 of each year, the governing board of an institution of higher education shall report to the legislature the amount of the following sources of income for funding the institution's student health center:

(1) money received from student fees and charges;

(2) money received from the operation of the student health center's pharmacy;

(3) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan sponsored by or administered on behalf of the institution; and

(4) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan other than a plan sponsored by or administered on behalf of the institution.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representative Thompson offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . TEXAS ENTERPRISE FUND

SECTION 1. Section 481.078, Government Code, is amended by adding Subsection (k) to read as follows:

(k) A grant of money from the fund may not be made to a recipient unless the recipient, as one of the performance targets in the agreement, commits to providing a health benefit plan to the recipient's full-time employees who are employed in a facility or activity financed by the grant.

Amendment No. 2 was withdrawn.

**Amendment No. 3**

Representative Taylor offered the following amendment to **SB 23**:

Amend **SB 23** on third reading in Chapter 1465, Insurance Code, as added by Amendment No. 1 by Smithee, following added Section 1465.001, by inserting:

Sec. 1465.0015. APPLICABILITY TO CERTAIN PLANS. This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

- (1) medical assistance under Chapter 32, Human Resources Code; or
- (2) health benefits under the state child health plan.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Eiland offered the following amendment to **SB 23**:

Amend **SB 23**, on third reading, as follows:

(1) In added Subdivision (1), Section 1302.001, Insurance Code, as added by Floor Amendment No. 6, by Eiland, after "provider.", insert "The term does not include a discount health care program operator."

(2) In added Section 1302.001, Insurance Code, as added by Floor Amendment No. 6, by Eiland, following Subdivision (1) of that section, insert the following new subdivision:

(1-a) "Discount health care program operator" means a person who, in exchange for fees, dues, charges, or other consideration operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charges to members.

(3) In added Subdivision (2), Section 1302.001, Insurance Code, as added by Floor Amendment No. 6, by Eiland, between "means" and "a hospital" insert "an individual licensed in this state to engage in a health profession, other than a physician, and a health care facility, including".

(4) In Paragraph (A), Subdivision (2), of added Section 1302.002, Insurance Code, as added by Floor Amendment No. 6, by Eiland, at the end of the paragraph, strike "or".

(5) In Paragraph (B), Subdivision (2), of added Section 1302.002, Insurance Code, as added by Floor Amendment No. 6, by Eiland, at the end of the paragraph, strike the underlined period and substitute the following:

"; or

(C) a discount health care program."

(6) In added Section 1302.151, Insurance Code, as added by Floor Amendment No. 6, by Eiland, following Subsection (c) of that section, insert the following new Subsections (d) and (e):

(d) Notwithstanding Subsection (b)(1), a discount broker may offer, but may not require, a contract containing more than one line of business if each line of business is presented in a separate exhibit of the contract that includes:

(1) material contract provisions uniquely applicable to the line of business;

(2) full and complete disclosure of how the contracted fee schedule for the line of business will be computed, including the percent of billed charges and percent of Medicare;

(3) a toll-free number or electronic address through which the physician may request the fee schedule applicable to any covered services that the physician intends to provide; and

(4) a contract cover page that includes a separate signature line for each line of business for the physician to indicate assent to provide services for that line of business and permit disclosure or transfer of the physician's contracted discounted fee.

(e) For purposes of this section, "transfer" does not include a transfer to a discount health care program.

(7) Strike added Subsection (c), Section 1301.056, Insurance Code, as added by Floor Amendment No. 6, by Eiland, and substitute the following:

"(c) An insurer, third-party administrator, or other entity may not access a discounted fee, as described by Subsection (a), unless notice has been provided to the contracted physicians, practitioners, institutional providers, and organizations of physicians and health care providers. For the purposes of the notice requirements of this subsection, the term "other entity" does not include an employer that contracts with an insurer or third-party administrator. For the purposes of this section, the term "other entity" does not include a discount health care program operator as that term is defined by Section 1302.001."

Amendment No. 4 was adopted.

## **Amendment No. 5**

Representative J. Davis offered the following amendment to **SB 23**:

Amend **SB 23** on third reading (House Committee Printing—Amendment No. 5) by adding new SECTION as follows:

On page 7, line 8, add a new Subchapter O, Section 843.506, to read as follows:

SECTION 843.506 APPLICABILITY. This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

- Code; or
- (i) medical assistance under Chapter 32, Human Resources
  - (ii) health benefits under the state child health plan.

Amendment No. 5 was withdrawn.

### **Amendment No. 6**

Representative Taylor offered the following amendment to **SB 23**:

Amend **SB 23** on third reading as follows:

(1) In Subsection (a)(1), Section 1376.001, Insurance Code, as added by Amendment No. 2 by Oliveira, at the end of Paragraph (D) of that subdivision, insert "and".

(2) In Subsection (a)(2), Section 1376.001, Insurance Code, as added by Amendment No. 2 by Oliveira, at the end of that subdivision, strike the semi-colon and substitute a period.

(3) In Subsection (a), Section 1376.001, Insurance Code, as added by Amendment No. 2 by Oliveira, strike Subdivision (3).

(4) In Subsection (a), Section 1458.002, Insurance Code, as added by Amendment No. 11 by Rose, strike:

"health benefit plan that:

(1)"

and substitute "health benefit plan that".

(5) In Subsection (a), Section 1458.002, Insurance Code, as added by Amendment No. 11 by Rose, at the end of Paragraph (I), strike "; or" and substitute a period.

(6) In Subsection (a), Section 1458.002, Insurance Code, as added by Amendment No. 11 by Rose, strike Subdivision (2).

(7) In Section 1377.001, Insurance Code, as added by Amendment No. 14 by Coleman, strike Subsection (c) of that section and reletter existing subsections of Section 1377.001, Insurance Code, accordingly.

(8) In Section 1371.002, Insurance Code, as added by Amendment No. 16 by Gallego, strike Subsection (b) of that section and reletter existing subsections of Section 1371.002, Insurance Code, accordingly.

Amendment No. 6 was adopted.

### **Amendment No. 7**

Representative Noriega offered the following amendment to **SB 23**:

Amend **SB 23** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . STUDENT HEALTH CENTERS

SECTION \_\_\_\_ . Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.953 to read as follows:

Sec. 51.953. STUDENT HEALTH CENTER. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual or group health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) The governing board of an institution of higher education may require the institution's student health center to assist a student or other person entitled to obtain health care services from the health center in receiving benefits under a health benefit plan by filing or having a claim filed with the health benefit plan issuer on behalf of the student or other person.

(c) An institution of higher education on behalf of the institution's student health center located within the geographic service area of a health benefit plan may contract with the health benefit plan issuer to provide health care services under the plan to students or other persons entitled to obtain health care services from the health center who are covered by the plan.

(d) Amounts received by an institution of higher education from a health benefit plan issuer as a result of a claim filed with the issuer by or on behalf of the institution's student health center are institutional funds under Section 51.009 and may be used only for the construction, improvement, operation, or maintenance of the student health center or to increase or enhance the services offered by the student health center. It is the intent of the legislature that those amounts be in addition to other amounts of money allocated to the student health center and those other amounts not be reduced.

(e) Not later than January 15 of each year, the governing board of an institution of higher education shall report to the legislature the amount of the following sources of income for funding the institution's student health center:

(1) money received from student fees and charges;

(2) money received from the operation of the student health center's pharmacy;

(3) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan sponsored by or administered on behalf of the institution; and

(4) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan other than a plan sponsored by or administered on behalf of the institution.

#### **Amendment No. 7 - Point of Order**

Representative Taylor raised a point of order against further consideration of Amendment No. 7 under Rule 8, Section 3 of the House Rules and Article III, Section 35a of the Texas Constitution on the grounds that the amendment violates the one subject rule.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 7.

#### **Amendment No. 8**

Representative Thompson offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . TEXAS ENTERPRISE FUND

SECTION 1. Section 481.078, Government Code, is amended by adding Subsection (k) to read as follows:

(k) A grant of money from the fund may not be made to a recipient unless the recipient, as one of the performance targets in the agreement, commits to providing a health benefit plan to the recipient's full-time employees who are employed in a facility or activity financed by the grant.

A record vote was requested.

Amendment No. 8 was adopted by (Record 1642): 134 Yeas, 14 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons(C); Strama; Straus; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Chisum; Christian; Cook, R.; Farabee; Flynn; Hancock; Hartnett; Howard, C.; Keffer; Miller; Parker; Phillips; Swinford; Zedler.

Present, not voting — Mr. Speaker.

Absent — Smithee.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1642. I intended to vote no.

Berman

I was shown voting yes on Record No. 1642. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1642. I intended to vote no.

Callegari

I was shown voting yes on Record No. 1642. I intended to vote no.

Talton

### Amendment No. 9

Representative Coleman offered the following amendment to **SB 23**:

Amend **SB 23** on third reading as follows:

(1) In Section 524.0512, Insurance Code (as added on second reading by Amendment No. 14 by Coleman), strike "acute or chronic medical conditions" and substitute "hemophilia".

(2) In the heading to ARTICLE \_\_\_\_ of the bill (as added on second reading by Amendment No. 14 by Coleman), strike "CERTAIN MEDICAL CONDITIONS" and substitute "HEMOPHILIA".

(3) In the chapter heading for Chapter 1377, Insurance Code (as added on second reading by Amendment No. 14 by Coleman), strike "ACUTE OR CHRONIC MEDICAL CONDITIONS" and substitute "HEMOPHILIA".

(4) In Section 1377.003, Insurance Code (as added on second reading by Amendment No. 14 by Coleman), strike "applicable to an acute or chronic medical condition of an individual covered".

(5) In Section 1377.003, Insurance Code (as added on second reading by Amendment No. 14 by Coleman), between "under the plan" and "to a specified dollar amount", insert "for hemophilia".

(6) In Section 1377.004, Insurance Code (as added on second reading by Amendment No. 14 by Coleman), strike the last sentence of that section.

Amendment No. 9 was adopted.

#### **Amendment No. 10**

Representative Zerwas offered the following amendment to **SB 23**:

Amend **SB 23** on third reading by striking Subsections (e) and (f), Section 1458.004, Insurance Code, as added by Amendment No. 11 by Rose.

Amendment No. 10 was adopted.

#### **Amendment No. 11**

Representative Taylor offered the following amendment to **SB 23**:

Amend **SB 23** on third reading in Chapter 1465, Insurance Code, as added by Amendment No. 1 by Smithee, following added Section 1465.001, by inserting:

Sec. 1465.0015. APPLICABILITY TO CERTAIN PLANS. This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

- (1) medical assistance under Chapter 32, Human Resources Code; or
- (2) health benefits under the state child health plan.

Amendment No. 11 was adopted.

#### **Amendment No. 12**

Representative J. Davis offered the following amendment to **SB 23**:

Amend **SB 23** on third reading (House Committee Printing—Amendment No. 5) by adding new SECTION as follows:

On page 7, line 8, add a new Subchapter O, Section 843.506, to read as follows:

SECTION 843.506 APPLICABILITY. This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

- (i) medical assistance under Chapter 32, Human Resources Code; or
- (ii) health benefits under the state child health plan.

Amendment No. 12 was adopted.

**Amendment No. 13**

Representative Callegari offered the following amendment to **SB 23**:

Amend **SB 23** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The Health and Human Services Commission shall study the cost effectiveness of contracts with pharmacy benefit managers with regard to costs, savings, and transparency. As part of the study conducted under this section, the commission shall recommend to the legislature any statutory changes that may improve this state's position when negotiating and entering contracts with pharmacy benefit managers. Not later than July 1, 2008, the commission shall report the findings of the study conducted under this section to the standing committees of the senate and the house of representatives that have primary jurisdiction over the commission, House Committee on Government Reform, and the House Committee on Insurance. ~~including the~~

A record vote was requested.

Amendment No. 13 was adopted by (Record 1643): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; 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; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Phillips.

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

Absent — Christian; Menendez; Puente; Smithee.

A record vote was requested.

**SB 23**, as amended, was passed by (Record 1644): 145 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee;

Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; 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; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Harper-Brown; O'Day; Phillips.

Present, not voting — Mr. Speaker.

Absent — Moreno.

### **SB 10 ON THIRD READING (Delisi - House Sponsor)**

**SB 10**, A bill to be entitled An Act relating to the operation and financing of the medical assistance program and other programs to provide health care benefits and services to persons in this state; providing penalties.

#### **Amendment No. 1**

Representative Delisi offered the following amendment to **SB 10**:

Amend **SB 10** (committee printing) by adding the following appropriately numbered sections:

SECTION \_\_\_\_\_. Section 533.012(c), Government Code, is amended to read as follows:

(c) The commission's office of investigations and enforcement shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program. ~~[The comptroller may review the information in connection with the health care fraud study conducted by the comptroller.]~~

SECTION \_\_\_\_\_. Section 403.028, Government Code, is repealed.

Amendment No. 1 was adopted.

#### **Amendment No. 2**

Representative Martinez offered the following amendment to **SB 10**:

Amend **SB 10** by adding a new appropriately numbered SECTION to read as follows:

SECTION \_\_\_\_\_. Section 773.055, Health and Safety Code is amended by adding Subsection (i) to read as follows:

Section \_\_\_\_\_. 773.055 CRIMINAL BACKGROUND CHECKS OF EMERGENCY MEDICAL SERVICES PERSONNEL

(i) An applicant for the re-issuance of a license or re-certification under Section 773.055, Health and Safety Code may be subject to a criminal background check. Notwithstanding any state statute or administrative rule of the Department of State Health Services of another state agency, information relating

to a conviction for a class "B" or "C" misdemeanor that occurred 48 months or more prior to the date of the person's application shall not be considered in determining the eligibility of the person for the re-issuance of a license or re-certification. An applicant for the re-issuance of a license or re-certification under Section 773.055, Health and Safety Code shall not be required to disclose a conviction for a class "B" or "C" misdemeanor that is finally adjudicated if the conviction occurred 48 months or more prior to the date of the person's application.

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

On behalf of Representative Miller, Representative Delisi offered the following amendment to **SB 10**:

Amend **SB 10** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subsection (a), Section 1207.002, Insurance Code, is amended to read as follows:

(a) A group health benefit plan issuer shall permit an individual who is otherwise eligible for enrollment in the plan to enroll in the plan, without regard to any enrollment period restriction, on receipt of written notice from the Health and Human Services Commission ~~[or a designee of the commission stating]~~ that the individual is:

(1) a recipient of medical assistance under the state Medicaid program and is a participant in the health insurance premium payment reimbursement program under Section 32.0422, Human Resources Code; or

(2) a child eligible for ~~[enrolled in]~~ the state child health plan under Chapter 62, Health and Safety Code, and eligible to participate ~~[is a participant]~~ in the health insurance premium assistance program under Section 62.059, Health and Safety Code.

(b) Section 1207.003, Insurance Code, is amended to read as follows:

Sec. 1207.003. EFFECTIVE DATE OF ENROLLMENT. (a) Unless enrollment occurs during an established enrollment period, enrollment in a group health benefit plan under Section 1207.002 takes effect on:

(1) the eligibility enrollment date specified in the written notice from the Health and Human Services Commission under Section 1207.002(a); or

(2) the first day of the first calendar month that begins at least 30 days after the date written notice or a written request is received by the plan issuer under Section 1207.002(a) or (b), as applicable.

(b) Notwithstanding Subsection (a), the individual must comply with a waiting period required under the state child health plan under Chapter 62, Health and Safety Code, or under the health insurance premium assistance program under Section 62.059, Health and Safety Code, as applicable.

(c) Subsection (b), Section 1207.004, Insurance Code, is amended to read as follows:

(b) Notwithstanding any other requirement of a group health benefit plan, the plan issuer shall permit an individual who is enrolled in the plan under Section 1207.002(a)(2), and any family member of the individual enrolled under Section 1207.002(c), to terminate enrollment in the plan not later than the 60th day after the date on which the individual provides a written request to disenroll

from the plan because the individual [~~satisfactory proof to the issuer that the child is~~] no longer wishes to participate [~~a participant~~] in the health insurance premium assistance program under Section 62.059, Health and Safety Code.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

Representative Chavez offered the following amendment to **SB 10**:

Amend **SB 10** as follows:

Amend second House reading Amendment No. 11 on page 2, line 3, by striking "November 1, 2007," and inserting in its place "May 1, 2008,".

Amendment No. 4 was adopted.

#### **Amendment No. 5**

Representative Lucio offered the following amendment to **SB 10**:

Amend **SB 10** on third reading by striking the section of the bill added by Amendment No. 16 by Lucio III on second reading.

Amendment No. 5 was adopted.

#### **Amendment No. 6**

Representative Truitt offered the following amendment to **SB 10**:

Amend **SB 10** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_. Section 32.024, Human Resources Code, is amended by adding Subsection (y-1) to read as follows:

(y-1) A woman who receives a breast or cervical cancer screening service under Title XV of the Public Health Service Act (42 U.S.C. Section 300k et seq.) and who otherwise meets the eligibility requirements for medical assistance for treatment of breast or cervical cancer as provided by Subsection (y) is eligible for medical assistance under that subsection, regardless of whether federal Medicaid matching funds are available for that medical assistance. A screening service of a type that is within the scope of screening services under that title is considered to be provided under that title regardless of whether the service was provided by a provider who receives or uses funds under that title.

Amendment No. 6 was adopted.

#### **Amendment No. 7**

Representative Truitt offered the following amendment to **SB 10**:

Amend **SB 10** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_. (a) The Texas Health Care Policy Council, in coordination with the Institute for Demographic and Socioeconomic Research at The University of Texas at San Antonio, the Regional Center for Health Workforce Studies at the Center for Health Economics and Policy of The University of Texas Health Science Center at San Antonio, and the Texas Medical Board, shall conduct a study regarding increasing:

(1) the number of medical residency programs and medical residents in this state; and

- (2) the number of physicians practicing medical specialties.
- (b) The study must:
- (1) examine the feasibility of using a percentage of physician licensing fees to increase the number of medical residency programs and medical residents in this state;
  - (2) put emphasis on, and recommend a plan of action for, increasing the number of:
    - (A) medical residency programs and medical residents in medically underserved areas of this state; and
    - (B) physicians practicing medical specialties that are underrepresented in this state; and
  - (3) determine the number of medical residents that obtain a license to practice medicine in this state on completion of a medical residency program in this state.
- (c) Not later than December 1, 2008, the Texas Health Care Policy Council shall:
- (1) report the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives; and
  - (2) make available the raw data from the study to the governor, the lieutenant governor, the speaker of the house of representatives, the House Committee on Public Health, and the Senate Committee on Health and Human Services.
- (d) The Texas Health Care Policy Council may accept gifts, grants, and donations of any kind from any source for the purposes of this section.
- (e) This Section expires January 1, 2009.

Amendment No. 7 was adopted.

A record vote was requested.

**SB 10**, as amended, was passed by (Record 1645): 137 Yeas, 9 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; 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; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Bonnen; Christian; Dutton; Harper-Brown; Laubenberg; Paxton; Phillips; Talton; Zedler.

Present, not voting — Mr. Speaker.

Absent — Deshotel; Eiland; Krusee.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1645. I intended to vote no.

Berman

I was shown voting yes on Record No. 1645. I intended to vote no.

Flynn

**SB 6 ON THIRD READING  
(Peña - House Sponsor)**

**SB 6**, A bill to be entitled An Act relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses.

**Amendment No. 1**

Representative Eissler offered the following amendment to **SB 6**:

Amend **SB 6** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 37, Education Code, is amended by adding Subchapter I to read as follows:

**SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS**

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS UNDER COURT SUPERVISION. (a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS NOT UNDER COURT SUPERVISION. A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309 for one semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION PROGRAM. (a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

(1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

(2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

(3) an instructor from the alternative education program to which the student is assigned;

(4) a school district designee selected by the board of trustees; and

(5) a counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

(1) does not threaten the safety of other students or teachers;

(2) will not be detrimental to the educational process; and

(3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each

school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH DISABILITY. (a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) Except as provided by Subsection (b), a school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice alternative education program is entitled to funding for a student who is placed in the program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

Sec. 37.311. CONFERENCE. (a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

Sec. 37.312. LIABILITY. This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

Sec. 37.313. CONFLICTS OF LAW. To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

SECTION \_\_\_\_. Article 15.27, Code of Criminal Procedure, is amended by amending Subsections (b) and (c) and adding Subsections (a-1) and (j) to read as follows:

(a-1) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a) if the superintendent or the person designated by the superintendent determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or on the next school day. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, promptly notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, ~~or~~ probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment notify the new school officials of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for

by Subsection (b) or (e)(2). The new school officials shall, within 24 hours of receiving notification under this subsection, ~~promptly~~ notify all instructional and support personnel who have regular contact with the student.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

SECTION \_\_\_\_\_. Subsection (d), Article 15.27, Code of Criminal Procedure, is repealed.

SECTION \_\_\_\_\_. Subchapter I, Chapter 37, Education Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 1 was adopted.

## **Amendment No. 2**

Representative Parker offered the following amendment to **SB 6**:

Amend **SB 6** on third reading by adding the following appropriately numbered SECTION to the bill and by renumbering the existing SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. (a) Section 521.103, Transportation Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) If the department issues or renews a personal identification certificate under this section to a person who is subject to Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in, the department shall print "RSO" in black on the face of each personal identification certificate issued to or renewed by the person before the 20th anniversary of the date that the person was first required to register under Chapter 62, Code of Criminal Procedure.

(d) The department may collect an additional fee to implement the requirements of Subsection (c).

(e) The department shall post information on the department's Internet website explaining that a person whose personal identification certificate has "RSO" on the certificate is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in.

(b) Section 521.272, Transportation Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) If the department issues or renews a driver's license under this section to a person who is subject to Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in, the department shall print "RSO" in

black on the face of each driver's license issued to or renewed by the person before the 20th anniversary of the date that the person was first required to register under Chapter 62, Code of Criminal Procedure.

(e) The department may collect an additional fee to implement the requirements of Subsection (d).

(f) The department shall post information on the department's Internet website explaining that a person whose driver's license has "RSO" on the license is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in.

(c) Section 522.033, Transportation Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) If the department issues or renews a commercial driver's license or commercial driver learner's permit under this section to a person who is subject to Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in, the department shall print "RSO" in black on the face of each license or learner's permit issued to or renewed by the person before the 20th anniversary of the date that the person was first required to register under Chapter 62, Code of Criminal Procedure.

(d) The department may collect an additional fee to implement the requirements of Subsection (c).

(e) The department shall post information on the department's Internet website explaining that a person whose commercial driver's license or commercial driver learner's permit has "RSO" on the license or learner's permit is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, as a result of a reportable conviction or adjudication that is based on an offense or conduct the victim of which was younger than 14 years of age at the time the offense was committed or the conduct was engaged in.

(d) The change in law made by this section applies only to a personal identification certificate, driver's license, commercial driver's license, or commercial driver learner's permit issued or renewed on or after the effective date of this Act.

Amendment No. 2 was adopted.

A record vote was requested.

**SB 6**, as amended, was passed by (Record 1646): 149 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; Moreno; 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(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

**SB 8 ON THIRD READING**  
**(Flynn - House Sponsor)**

**SB 8**, A bill to be entitled An Act relating to random testing of certain public school students for steroid use.

**Amendment No. 1**

Representative Villarreal offered the following amendment to **SB 8**:

Amend **SB 8** (House committee printing) on third reading as follows:

(1) In SECTION 2 of the bill, in the introductory language (page 1, line 11), strike "and (f-1)" and substitute "(f-1), and (f-2)".

(2) In SECTION 2 of the bill, in amended Section 33.091, Education Code (page 4, between lines 7 and 8), insert the following:

(f-2) The league shall periodically evaluate the list of substances banned by the United States Anti-Doping Agency and determine whether any of those substances is appropriate for inclusion in the steroid testing program conducted under Subsection (d). Notwithstanding any other provision of this section, if the league determines that inclusion is appropriate, the league may include the banned substance in the scope of the steroid testing program conducted under Subsection (d). A banned substance included in the scope of the steroid testing program in accordance with this subsection is treated as if the substance were a steroid, and all provisions of this section that refer to a steroid apply equally to the banned substance.

Amendment No. 1 was adopted.

A record vote was requested.

**SB 8**, as amended, was passed by (Record 1647): 139 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; 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 Tourelles; Goosby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; 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; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Christian; Harper-Brown; Howard, C.; O'Day; Phillips.

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

Absent — Chavez; Corte; Moreno.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1647. I intended to vote no.

Latham

### SB 758 ON THIRD READING

(Rose, J. Davis, S. King, Naishtat, Pierson, et al. - House Sponsors)

**SB 758**, A bill to be entitled An Act relating to child protective services.

#### Amendment No. 1

Representative Rose offered the following amendment to **SB 758**:

Amend **SB 758** on third reading as follows:

(1) In the section of the bill amending Section 264.106, Family Code, in amended Paragraph (A), Subdivision (1), Subsection (a) of that section, following the semicolon, strike "and".

(2) In the section of the bill amending Section 264.106, Family Code, in amended Paragraph (B), Subdivision (1), Subsection (a) of that section, between "mandates" and the period, insert the following:

; and

(C) assisting the department in a suit affecting the parent-child relationship commenced by the department

(3) In the section of the bill amending Subsection (c), Section 45.054, Human Resources Code, strike the first sentence of Subsection (c) of that section as amended by Amendment No. 4 by Rose, and substitute "Not later than the second ~~[first]~~ anniversary of the date the department enters into the first contract for ~~[substitute care and]~~ case management services under a pilot program described by this chapter and Section 264.106, Family Code ~~[section]~~, the department shall contract with a qualified, independent third party to evaluate the pilot program ~~[each phase of the privatization of substitute care and case management services]."~~

Amendment No. 1 was adopted.

A record vote was requested.

**SB 758**, as amended, was passed by (Record 1648): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; 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; Moreno; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Dutton; Eiland.

**SB 228 ON THIRD READING  
(Eiland - House Sponsor)**

**SB 228**, A bill to be entitled An Act relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support; providing a civil penalty.

**Amendment No. 1**

Representative Gonzalez Toureilles offered the following amendment to **SB 228**:

Amend **SB 228** by adding a new appropriately numbered SECTION to read as follows:

SECTION \_\_\_\_\_. In the event another Act of the 80th Legislature, Regular Session, includes a provision adopting Section 153.015, Family Code, relating to electronic communications between a parent and a child, and that provision is not identical to Section 153.015, Family Code, as provided in this Act, the provision in this Act shall prevail and any such provision in any other Act that is not identical to the provision in this Act shall not become effective.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representatives Dutton and Isett offered the following amendment to **SB 228**:

Amend **SB 228** on third reading by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 153.3161, Family Code, is amended to read as follows:

Sec. 153.3161. [~~LIMITED~~] POSSESSION DURING MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child; and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) In addition to the general terms and conditions of possession required by Section 153.316, if a possessory conservator or a joint managing conservator of the child without the exclusive right to designate the primary residence of the child is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces, the court shall:

(1) permit that conservator to designate a person who may exercise ~~limited~~ possession of the child on behalf of that conservator during any period that the conservator is deployed under a military deployment ~~[outside of the United States]~~; and

(2) if the conservator elects to designate a person under Subdivision (1), provide in the order for ~~limited~~ possession of the child by the designated person under those circumstances, subject to the court's determination that the ~~limited~~ possession is in the best interest of the child.

(c) ~~(b)~~ If the court determines that the ~~limited~~ possession is in the best interest of the child, the court shall provide in the order that during periods of military deployment:

(1) the designated person has the right to possession of the child for the periods and in the manner in which the deployed conservator would be entitled to exercise possession if not deployed ~~[on the first weekend of each month beginning at 6 p.m. on Friday and ending at 6 p.m. on Sunday]~~;

(2) ~~[the other parent shall surrender the child to the designated person at the beginning of each period of possession at the other parent's residence;~~

~~[(3) the designated person shall return the child to the other parent's residence at the end of each period of possession;~~

~~[(4) the child's other parent and the designated person are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator [Sections 153.316(5) (9)];~~

(3) ~~[(5)]~~ the designated person has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) ~~[(6)]~~ the designated person is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) The court shall use every reasonable means to expedite a hearing under this section to ensure that the order is rendered before the conservator's military deployment, unless the court determines that an expedited hearing is not in the best interest of the child.

(e) ~~[(e)]~~ After the military deployment is concluded, and the deployed parent returns to that parent's usual residence, the designated person's right to ~~limited~~ possession under this section terminates and the rights of all affected parties are governed by the terms of any court order applicable when a parent is not deployed.

SECTION \_\_\_\_\_. Subchapter F, Chapter 153, Family Code, is amended by adding Section 153.3162 to read as follows:

Sec. 153.3162. ADDITIONAL PERIODS OF POSSESSION OR ACCESS AFTER CONCLUSION OF MILITARY DEPLOYMENT. (a) In this section:

(1) "Conservator" means:

(A) a possessory conservator of a child; or

(B) a joint managing conservator of a child without the exclusive right to designate the primary residence of the child.

(2) "Military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(A) is not provided the option of being accompanied by the person's child; and

(B) is serving in a location where access to the person's child is not reasonably possible.

(b) Not later than the 90th day after the date a conservator who is a member of the armed services concludes the conservator's military deployment, the conservator may petition the court to:

(1) compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during the conservator's military deployment; and

(2) award the conservator additional periods of possession of or access to the child to compensate for the periods described by Subdivision (1).

(c) If a conservator petitions the court under Subsection (b), the court:

(1) shall compute the periods of possession or access to the child described by Subsection (b)(1); and

(2) may award to the conservator additional periods of possession of or access to the child for a length of time and under terms the court considers reasonable, if the court determines that the award of additional periods of possession of or access to the child is in the best interest of the child.

(d) In making the determination under Subsection (c)(2), the court:

(1) shall consider:

(A) the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, as computed under Subsection (c)(1); and

(B) any other factor the court considers appropriate; and

(2) is not required to award additional periods of possession of or access to the child that equals the possession or access to which the conservator would have been entitled during the conservator's military deployment, as computed under Subsection (c)(1).

(e) After the conservator has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not deployed under a military deployment.

(f) This section does not apply if a court rendered an order under Section 153.3161 that permitted a person to exercise the right to possession of the child during the conservator's military deployment for the period and in the manner in which the conservator would be entitled to exercise possession if not deployed under a military deployment.

SECTION \_\_\_\_. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child; and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) The military deployment [~~outside this country~~] of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child.

(c) [~~(b)~~] If the court determines that modification is in the best interest of the child, the court may modify the order or decree to provide in a manner consistent with Section 153.3161 for [~~limited~~] possession of the child during the period of the military deployment by a person designated by the deployed conservator.

SECTION \_\_\_\_\_. Section 153.3161, Family Code, as amended by this Act, applies only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION \_\_\_\_\_. Section 153.3162, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship, or an action to modify an order in a suit affecting the parent-child relationship, pending in a trial court on the effective date of this Act or filed on or after that date.

SECTION \_\_\_\_\_. Section 156.105, Family Code, as amended by this Act, applies only to an action to modify an order in a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

Amendment No. 2 was adopted.

### Amendment No. 3

Representative Eiland offered the following amendment to **SB 228**:

Amend **SB 228** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. (a) Subtitle B, Title 5, Family Code, is amended by adding Chapter 163 to read as follows:

#### CHAPTER 163. UNIFORM CHILD ABDUCTION PREVENTION ACT

Sec. 163.001. SHORT TITLE. This chapter may be cited as the Uniform Child Abduction Prevention Act.

Sec. 163.002. DEFINITIONS. In this chapter:

(1) "Abduction" means the wrongful removal of a child to another state or nation or the wrongful retention of a child in another state or nation.

(2) "Child" means an unemancipated individual who is less than 18 years of age.

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order.

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence.

(5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(6) "Petition" includes a motion or its equivalent.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.

(9) "Travel document" means a record relating to a travel itinerary, including a pass and a reservation for transportation and accommodations. The term does not include a passport or international visa.

(10) "Wrongful removal" means the taking of a child that breaches a right of custody or visitation given or recognized under the law of this state.

(11) "Wrongful retention" means the keeping or concealing of a child that breaches a right of custody or visitation provided or recognized under the law of this state.

Sec. 163.003. COOPERATION AND COMMUNICATION AMONG COURTS. Sections 152.110, 152.111, and 152.112 apply to a proceeding under this chapter.

Sec. 163.004. ACTIONS FOR ABDUCTION PREVENTION MEASURES. (a) A court on its own motion may order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(b) A party to a child custody determination or an individual or entity having a right under state law to seek a child custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this chapter.

(c) An individual or entity entitled to bring an action under Subsection (b) may file a petition seeking abduction prevention measures with respect to a child who is not yet the subject of a child custody determination.

(d) A prosecutor or public authority designated under Section 152.315 may petition for a warrant to take physical custody of a child under Section 163.009.

Sec. 163.005. JURISDICTION. (a) A petition under this chapter may be filed only in a court that has jurisdiction to make a child custody determination with respect to the child at issue under Chapter 152.

(b) A court of this state has temporary emergency jurisdiction under Section 152.204 if the court finds a credible risk of abduction.

Sec. 163.006. CONTENTS OF PETITION. A petition for abduction prevention measures must:

(1) be verified;

(2) include a copy of an existing child custody determination, if any, and if available;

(3) specify the risk factors for abduction, including the relevant factors described by Section 163.007; and

(4) subject to Section 152.209(e), if reasonably ascertainable, contain:

(A) the name, birth date, and gender of the child at risk for abduction;

(B) the customary address and current physical location of the child;

(C) the identity, customary address, and current physical location of the respondent;

(D) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of such an action;

(E) a statement of whether either party to the action has been arrested for a crime related to family violence or child abuse, and the date, location, and disposition of such a case; and

(F) any other information required to be submitted to the court for a child custody determination under Section 152.209.

Sec. 163.007. FACTORS TO DETERMINE RISK OF ABDUCTION. (a) In determining whether there is a credible risk of abduction of a child, the court shall consider evidence that the respondent or the petitioner:

(1) has previously abducted or attempted to abduct the child;

(2) has threatened to abduct the child;

(3) has recently engaged in activities, other than planning activities related to carrying out a safety plan to flee from family violence, that may indicate a planned abduction, including:

(A) abandoning employment;

(B) selling a primary residence or terminating a lease;

(C) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any other unusual financial activities;

(D) applying for a passport or visa, obtaining travel documents, or purchasing travel tickets for the respondent, another family member, or the child;  
or

(E) seeking to obtain the child's birth certificate or school or medical records;

(4) has engaged in family violence, stalking, or child abuse or neglect;

(5) has failed or refused to follow a child custody determination;

(6) lacks strong familial, financial, emotional, or cultural ties to the state or the United States, regardless of whether the other parent is a citizen or permanent resident of the United States;

(7) has strong familial, financial, emotional, or cultural ties to another state or country and is likely to take the child to that country, particularly a country that:

(A) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;

(B) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:

(i) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;

(ii) is noncompliant according to the most recent compliance report issued by the United States Department of State; or

(iii) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;

(C) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

(D) has laws or practices that would:

(i) enable the respondent, without due cause, to prevent the petitioner from contacting the child;

(ii) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or

(iii) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;

(E) is included by the United States Department of State on a current list of state sponsors of terrorism;

(F) does not have an official United States diplomatic presence in the country; or

(G) is engaged in active military action or war, including a civil war, to which the child may be exposed;

(8) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;

(9) has had an application for United States citizenship denied;

(10) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, visa, travel documents, social security card, driver's license, or other government-issued identification card or has made a misrepresentation to the United States government;

(11) has used multiple names to attempt to mislead or defraud; or

(12) has engaged in any other conduct the court considers relevant to the risk of abduction.

(b) In the hearing on a petition for abduction prevention measures, the court shall consider evidence that:

(1) the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent; and

(2) any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

Sec. 163.008. PROVISIONS AND MEASURES TO PREVENT ABDUCTION. (a) If a petition has been filed under this chapter, the court may enter an order that includes:

(1) the basis for the court's exercise of jurisdiction;

(2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding under the Texas Rules of Civil Procedure;

(3) a detailed description of each parent's custody and visitation rights and residential arrangements for the child;

(4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(5) identification of the child's country of habitual residence at the time of the issuance of the order.

(b) If after reviewing the evidence, at a hearing on a petition under this chapter or on the court's own motion, the court finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order must include the provisions described in Subsection (a) and the measures and conditions, including those described in Subsections (c), (d), and (e), that are

reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of both parents. In determining the measures to be ordered, the court shall consider:

- (1) the age of the child;
- (2) the potential harm to the child from an abduction;
- (3) the legal and practical difficulties of returning the child to the jurisdiction if abducted; and
- (4) the reasons for the potential abduction, including evidence of domestic violence or child abuse.

(c) An abduction prevention order may include one or more of the following:

(1) the imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:

- (A) the travel itinerary of the child;
- (B) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and

(C) copies of all travel documents;

(2) a prohibition against the respondent directly or indirectly:

(A) removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;

(B) removing or retaining the child in violation of the child custody determination;

(C) removing the child from school or a child-care or similar facility; or

(D) approaching the child at any location other than a site designated for supervised visitation;

(3) requiring a party to register the order in another state as a prerequisite to allowing the child to travel to that state;

(4) with regard to the child's passport:

(A) directing the petitioner to place the child's name in the United States Department of State's Children's Passport Issuance Alert Program (CPIAP);

(B) requiring the respondent to surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the respondent and the child; and

(C) prohibiting the respondent from applying on behalf of the child for a new or replacement passport or visa;

(5) as a prerequisite to exercising custody or visitation, requiring the respondent to provide:

(A) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy an authenticated copy of a court order detailing passport and travel restrictions for the child;

(B) to the court:

(i) proof that the respondent has provided the information in Paragraph (A); and

(ii) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;

(C) to the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country, and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parents objects; and

(D) a written waiver under the federal Privacy Act of 1974 (5 U.S.C. Section 552a), with respect to any document, application, or other information pertaining to the child authorizing disclosure of them to the court and the petitioner; and

(6) on the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in the United States.

(d) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay for the supervision;

(2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the expenses of recovery of the child, including attorney's fees and actual costs if there is an abduction; and

(3) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(e) To prevent imminent abduction of a child, a court may:

(1) issue a warrant to take physical custody of the child under Section 163.009 or other law of this state;

(2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this chapter or other law of this state; and

(3) grant any other relief allowed under other law of this state.

(f) The remedies provided in this chapter are cumulative and do not affect the availability of other state remedies to prevent child abduction.

Sec. 163.009. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

(a) If a petition under this chapter contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(b) The respondent on a petition under Subsection (a) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

(c) An ex parte warrant to take physical custody of a child must:

(1) recite the facts on which a determination of a credible risk of imminent wrongful removal of the child is based;

(2) direct law enforcement officers to take physical custody of the child immediately;

(3) state the date for the hearing on the petition; and

(4) provide for the safe interim placement of the child pending further order of the court.

(d) If feasible, before issuing a warrant and determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system, including those pertaining to protection orders, historical protection orders, warrants, sex offender registries, and persons on supervised release, and similar state databases to determine if either the petitioner or the respondent has a history of family violence or child abuse.

(e) The respondent must be served with the petition and warrant when, or immediately after, the child is taken into physical custody.

(f) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(g) If the court finds, after hearing, that a petitioner sought an ex parte warrant under Subsection (a) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney's fees, expenses, and costs.

(h) This chapter does not affect the availability of relief allowed under other law of this state.

**Sec. 163.010. DURATION OF ABDUCTION PREVENTION ORDER.** An abduction prevention order remains in effect until the earliest of:

(1) a time stated in the order;

(2) the date the child is emancipated;

(3) the date of the child's 18th birthday; or

(4) the date the order is modified, revoked, vacated, or superseded by a court with jurisdiction under Sections 152.201 through 152.203.

**Sec. 163.011. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 163.012. RELATION TO FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.

(b) Subchapter 1, Chapter 153, Family Code, is repealed.

(c) The changes in law made by this section apply to a suit affecting the parent-child relationship pending in a trial court on the effective date of this Act or filed on or after that date.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

Representative Hughes offered the following amendment to **SB 228**:

Amend **SB 228** on third reading by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 153.432, Family Code, is amended to read as follows:

Sec. 153.432. SUIT FOR [~~POSSESSION OR~~] ACCESS BY GRANDPARENT. (a) A biological or adoptive grandparent may request [~~possession of or~~] access to a grandchild by filing:

- (1) an original suit; or
- (2) a suit for modification as provided by Chapter 156.

(b) A grandparent may request [~~possession of or~~] access to a grandchild in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

(c) In a suit for access or for modification described by Subsection (a), the person filing the suit must execute and attach an affidavit that contains, along with supporting facts, the allegation that denial of access to the child by the petitioner endangers the child's physical health or significantly impairs the child's emotional well-being and development.

(d) The court shall deny the relief sought and refuse to schedule a hearing unless the court determines, on the basis of the affidavit, that facts adequate to support an allegation as described in Subsection (c) are stated in the affidavit. If the court determines that the facts stated are adequate to support an allegation, the court shall set a time and place for the initial hearing as provided by Section 153.433(b).

(e) If the court finds that a suit for access or for modification is filed frivolously or is designed to harass a party, the court shall assess attorney's fees as costs against the offending party.

SECTION \_\_\_\_\_. Section 153.433, Family Code, is amended to read as follows:

Sec. 153.433. [~~POSSESSION OF OR~~] ACCESS TO GRANDCHILD. (a) The court may [~~shall~~] order reasonable [~~possession of or~~] access to a grandchild by a grandparent if:

(1) at the time the relief is requested, at least one biological or adoptive parent of the child has not had that parent's parental rights terminated;

(2) the grandparent requesting [~~possession of or~~] access to the child overcomes the presumption that a parent acts in the best interest of the parent's child by proving by clear and convincing [~~a preponderance of the~~] evidence that denial of [~~possession of or~~] access to the child [~~would~~] significantly impairs [~~impair~~] the child's physical health or emotional well-being; and

(3) the grandparent requesting [~~possession of or~~] access to the child is a parent of a parent of the child and that parent of the child has not had parental rights terminated and that parent, for not less than six months before commencing the suit:

(A) has been [~~incarcerated in jail or prison during the three month period preceding the filing of the petition;~~

~~(B) has been found by a court to be incompetent;~~

~~(C) is] dead; or~~

(B) has [~~(D) does~~] not had [~~have~~] actual or court-ordered possession of or access to the child.

(b) As a threshold issue, the court shall conduct an initial hearing not later than the 45th day after the date of service of process at which the court shall dismiss the suit unless the grandparent requesting access to the child proves by clear and convincing evidence that the child's parent does not provide adequate care for the child and has engaged in culpable conduct that endangers the child's physical health or significantly impairs the child's emotional development.

(c) In a hearing under Subsection (b), the court may not render a temporary order.

(d) In a suit for access by a grandparent, unless the grandparent meets the evidentiary burden at the initial hearing, the court may not order:

(1) the appointment of an amicus attorney, guardian ad litem, or attorney ad litem; or

(2) counseling, a social study, mental examination, physical examination, or parenting classes, except for a grandparent who files the suit.

(e) An order granting access to a child by a grandparent that is rendered over a parent's objection must state, with specificity:

(1) the court's findings regarding the fitness of the parent;

(2) the parent's objections;

(3) the fact that the court gave special weight to the parent's objections;

(4) the manner in which the court gave special weight to the parent's objections; and

(5) the specific grounds for overriding the parent's objections.

(f) In a suit for access by a grandparent, the court may not award possession of a child to a grandparent.

(g) If the grandparent requesting access to a child fails to meet all of the evidentiary burdens under this section, the court shall award the parent all costs, fees, and expenses incurred by the parent to defend the suit in accordance with Chapter 106.

(h) This section does not prohibit a grandparent from filing a suit for managing conservatorship of a child under this chapter or Chapter 102 or 156.

SECTION \_\_\_\_\_. Section 153.434, Family Code, is amended to read as follows:

Sec. 153.434. LIMITATION ON RIGHT TO REQUEST ~~POSSESSION OR~~ ACCESS. A biological or adoptive grandparent may not request ~~possession of or~~ access to a grandchild if:

(1) each of the biological parents of the grandchild has:

(A) died;

(B) had the person's parental rights terminated; or

(C) executed an affidavit of waiver of interest in child or an affidavit of relinquishment of parental rights under Chapter 161 and the affidavit designates an authorized agency, licensed child-placing agency, or another person ~~other than the child's stepparent~~ as the managing conservator of the child; and

(2) the grandchild has been adopted~~[-]~~ or is the subject of a pending suit for adoption~~[-]~~ ~~by a person other than the child's stepparent~~.

SECTION \_\_\_\_\_. The changes in law made by this Act to Sections 153.432, 153.433, and 153.434, Family Code, apply to a suit affecting the parent-child relationship that is pending in a court on the effective date of this Act or is filed on or after that date.

A record vote was requested.

Amendment No. 4 was adopted by (Record 1649): 131 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia;

Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; 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; Moreno; Morrison; Mowery; Murphy; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Callegari; Corte; Gattis; Geren; Hartnett; Naishtat; Phillips.

Present, not voting — Mr. Speaker; Dukes.

Absent — Driver; Dunnam; Flores; Giddings; Krusee; Martinez Fischer; Pierson; Riddle; Rodriguez; Turner.

### Amendment No. 5

Representative Eiland offered the following amendment to **SB 228**:

Amend **SB 228** on third reading by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 3.007(d), Family Code, is amended to read as follows:

(d) A spouse who is a participant in an employer-provided stock option plan or an employer-provided restricted stock plan has a separate property interest in the options or restricted stock granted to the spouse under the plan as follows:

(1) if the option or stock was granted to the spouse before marriage but required continued employment during marriage before the grant could be exercised or the restriction removed, the spouse's separate property interest is equal to the fraction of the option or restricted stock in which:

(A) the numerator is the period from the date ~~the option or stock was granted until~~ the date of marriage and, if the option or stock also required continued employment following the date of dissolution of the marriage before the grant could be exercised or the restriction removed, the period from the date of dissolution of the marriage until the date the grant could be exercised or the restriction removed; and

(B) the denominator is the period from the date the option or stock was granted until the date the grant could be exercised or the restriction removed; and

(2) if the option or stock was granted to the spouse during the marriage but required continued employment following the date of dissolution of the ~~offer~~ marriage before the grant could be exercised or the restriction removed, the spouse's separate property interest is equal to the fraction of the option or restricted stock in which:

(A) the numerator is the period from the date of dissolution ~~[or termination]~~ of the marriage until the date the grant could be exercised or the restriction removed; and

(B) the denominator is the period from the date the option or stock was granted until the date the grant could be exercised or the restriction removed.

SECTION \_\_\_\_\_. Subchapter B, Chapter 4, Family Code, is amended by adding Section 4.107 to read as follows:

Sec. 4.107. LIMITATION OF ACTIONS. A statute of limitations applicable to an action asserting a claim for relief under an agreement under this subchapter is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

SECTION \_\_\_\_\_. Subchapter C, Chapter 4, Family Code, is amended by adding Section 4.207 to read as follows:

Sec. 4.207. LIMITATION OF ACTIONS. A statute of limitations applicable to an action asserting a claim for relief under an agreement under this subchapter is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

SECTION \_\_\_\_\_. Sections 3.007(a), (b), and (f), Family Code, are repealed.

SECTION \_\_\_\_\_. The change in law made by this Act to Section 3.007, Family Code, applies to a suit for dissolution of a marriage pending before a trial court on or filed on or after the effective date of this Act.

SECTION \_\_\_\_\_. The changes in law made by this Act by the addition of Sections 4.107 and 4.207, Family Code, apply to an agreement under Subchapter B or C, Chapter 4, Family Code, without regard to whether the agreement was made before, on, or after the effective date of this Act.

Amendment No. 5 was adopted.

### **Amendment No. 6**

Representatives Villarreal and Darby offered the following amendment to **SB 228**:

Amend **SB 228** on third reading as follows:

(1) In the section of the bill amending Section 157.324, Family Code, as added by Amendment No. 9 by Villarreal, in Subsection (a) of that section, in the first sentence of that subsection, strike "A person who knowingly pays over, releases, transfers, encumbers, conveys, or otherwise disposes of property" and substitute "A person who, with notice of a child support lien, pays over, releases, sells, transfers, encumbers, conveys, or otherwise [~~knowingly~~] disposes of property".

(2) In the section of the bill amending Section 157.324, Family Code, as added by Amendment No. 9 by Villarreal, immediately following added Subsection (c) of that section, insert the following:

(d) Subsection (a) does not apply to an attorney, title insurance company, or title insurance agent that closes a real estate transaction or issues a title insurance policy and that does not have notice of the child support lien or to a transaction described by this subsection in which the child support lien is not recorded in the county in which the property is located.

Amendment No. 6 was adopted.

A record vote was requested.

**SB 228**, as amended, was passed by (Record 1650): 145 Yeas, 0 Nays, 1 Present, not voting. (The vote was reconsidered later today, and **SB 228**, as amended, was passed by Record 1672.)

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; 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; 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; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Burnam; Gattis; Martinez Fischer; Puente.

**SB 653 ON THIRD READING**  
**(Heflin - House Sponsor)**

**SB 653**, A bill to be entitled An Act relating to filling certain vacancies on the governing bodies of municipalities.

A record vote was requested.

**SB 653** was passed by (Record 1651): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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(C); Strama; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Bonnen; Kolkhorst; Martinez Fischer; Straus; Thompson; Villarreal.

**SB 1788 ON THIRD READING**  
**(Madden - House Sponsor)**

**SB 1788**, A bill to be entitled An Act relating to the creation and operation of a state virtual school network to provide education to students through electronic means.

**Amendment No. 1**

Representative Allen offered the following amendment to **SB 1788**:

Amend **SB 1788** on third reading as follows:

(1) In SECTION 1 of the bill, immediately following added Section 30A.005, Education Code (house committee report page 4, between lines 24 and 25), insert the following:

Sec. 30A.006. PROVISION OF COURSES BY PRIVATE SCHOOLS OR FOR PRIVATE SCHOOL STUDENTS PROHIBITED. (a) In this section, "private school" means a school that:

(1) offers a general education to elementary and secondary school students; and

(2) is not operated by a governmental entity.

(b) Notwithstanding any other provision of this chapter:

(1) a private school may not offer a course through the state virtual school network; and

(2) a student enrolled in a private school is not eligible to take a course offered through the state virtual school network.

(2) In SECTION 1 of the bill, in the expansion clause between added Subchapters A and B, Chapter 30A, Education Code (house committee report page 4, line 25), strike "30A.006" and substitute "30A.007".

Representative Madden moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 1652): 86 Yeas, 55 Nays, 3 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Davis, J.; Delisi; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Krusee; Latham; Laubenberg; Macias; Madden; Martinez; McCall; Merritt; Miles; Morrison; Mowery; Murphy; O'Day; Olivo; Orr; Otto; Parker; Paxton; Pitts; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Cohen; Coleman; Cook, R.; Darby; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; England; Escobar; Farias; Farrar; Flores; Gallego; Gonzales; Gonzalez Toureilles; Hernandez; Herrero; Howard, D.; King, T.; Kuempel; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; McClendon; McReynolds; Menendez; Miller; Naishtat; Noriega; Oliveira; Ortiz; Patrick; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Rodriguez; Rose; Strama; Thompson; Turner; Vaught; Veasey; Vo.

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

Absent — Burnam; Chavez; Goolsby; Kolkhorst; Moreno; Straus.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1652. I intended to vote no.

Giddings

I was shown voting present, not voting on Record No. 1652. I intended to vote yes.

Hilderbran

A record vote was requested.

**SB 1788** was passed by (Record 1653): 148 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Bailey; 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; 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; Moreno; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

**SB 530 ON THIRD READING  
(Eissler - House Sponsor)**

**SB 530**, A bill to be entitled An Act relating to physical activity requirements and physical fitness assessment for certain public school students.

**Amendment No. 1**

On behalf of Representative Coleman, Representative Eissler offered the following amendment to **SB 530**:

Amend **SB 530** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.021 to read as follows:

Sec. 38.021. PARENTAL NOTIFICATION CONCERNING SCHOOL NURSES. (a) In order to promote the health and physical fitness of public school students by providing relevant information to parents, a public school that does

not have a full-time school nurse assigned to the campus for more than 30 consecutive instructional days during the same school year shall provide written notice of the absence of a nurse to the parent of or other person standing in parental relation to each student enrolled in the school.

(b) The principal of the school shall provide the notice required by Subsection (a) not later than the 30th instructional day after the first day the school does not have a full-time school nurse assigned to the campus.

(c) The school shall:

(1) make a good faith effort to ensure that the notice required by this section is provided in a bilingual form to any parent or other person standing in parental relation whose primary language is not English; and

(2) retain a copy of any notice provided under this section.

Amendment No. 1 was adopted.

A record vote was requested.

**SB 530**, as amended, was passed by (Record 1654): 138 Yeas, 8 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; 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 Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Morrison; Mowery; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Christian; Harper-Brown; Hughes; Latham; Macias; Miller; Phillips.

Present, not voting — Mr. Speaker.

Absent — Allen; Martinez; Murphy.

### **SB 766 ON THIRD READING (Gattis - House Sponsor)**

**SB 766**, A bill to be entitled An Act relating to the transfer of powers and duties for accident reports from the Department of Public Safety of the State of Texas to the Texas Department of Transportation.

Representative Gattis moved to postpone consideration of **SB 766** until 4:45 p.m. today.

The motion prevailed.

**SB 1339 ON THIRD READING**  
**(Chisum - House Sponsor)**

**SB 1339**, A bill to be entitled An Act relating to allowing money in the disaster contingency fund to be used to provide assistance to producers of agricultural products affected by a disaster caused by severe drought or wildfire.

Representative Gattis moved to postpone consideration of **SB 1339** until 5 p.m. today.

The motion prevailed.

**SB 1436 ON THIRD READING**  
**(Creighton - House Sponsor)**

**SB 1436**, A bill to be entitled An Act relating to the transfer of responsibility for the National Flood Insurance Program from the Texas Commission on Environmental Quality to the Texas Water Development Board and the administration and funding of the program.

**Amendment No. 1**

Representative Anchia offered the following amendment to **SB 1436**:

Amend **SB 1436** on third reading in SECTION 3 of the bill, in amended Section 6.012, Water Code (page 3, line 8), between "development" and "of" insert "and implementation".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Pickett offered the following amendment to **SB 1436**:

Amend **SB 1436** on third reading as follows:

(1) In SECTION 5 of the bill, in amended Section 16.315, Water Code (page 4, lines 4 and 5), strike "to comply with" and substitute "that are not less stringent than [to comply with]".

(2) In SECTION 5 of the bill, in amended Section 16.315, Water Code (page 4, lines 17-19), strike Subdivision (5) and substitute the following:

(5) engaging in floodplain management, ~~and~~ adopting and enforcing permanent land use and control measures that are not less stringent than those [consistent with the criteria] established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(3) In SECTION 5 of the bill, in amended Section 16.315, Water Code (page 5, lines 25-27), strike Subdivision (13) and substitute the following:

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than [which are consistent with] the criteria for land management and use adopted by the director;

(4) Insert new SECTION 9A into the bill:

SECTION 9A. Section 16.319, Water Code, is amended to read as follows:

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that ~~[which measures]~~ will be not less stringent than ~~[consistent with]~~ the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

(5) Strike current SECTION 11 of the bill (page 10, line 21, through page 11, line 2) and substitute:

SECTION 12. (a) Except as otherwise provided by this section, this Act takes effect September 1, 2007.

(b) Sections 1-10 of this Act take effect September 1, 2007, but only if before that date the 80th Legislature appropriates at least \$6.1 million to the Texas Water Development Board for the state fiscal biennium beginning September 1, 2007, specifically for the purpose of administering the National Flood Insurance Program. If before that date the 80th Legislature does not appropriate at least that amount to the Texas Water Development Board for that state fiscal biennium specifically for that purpose, Sections 1-10 of this Act have no effect.

(c) If Sections 1-10 of this Act take effect, Section 11 of this Act has no effect.

(6) Insert a new SECTION 11 into the bill:

SECTION 11. Sections 16.315 and 16.319, Water Code, are amended to read as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than ~~[to comply with]~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

(1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

(3) assisting in minimizing damage caused by floods;

(4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) engaging in floodplain management, ~~[and]~~ adopting and enforcing permanent land use and control measures that are not less stringent than those ~~[consistent with the criteria]~~ established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the commission;

(12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than ~~[which are consistent with]~~ the criteria for land management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that ~~[which measures]~~ will be not less stringent than ~~[consistent with]~~ the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

(7) SECTION \_\_\_ of the bill, as added by Floor Amendment No. 1 (Ortiz) on Second Reading of the bill, is numbered "13".

Amendment No. 2 was adopted.

A record vote was requested.

**SB 1436**, as amended, was passed by (Record 1655): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Driver; Krusee; Martinez Fischer; Moreno.

### STATEMENT OF VOTE

When Record No. 1655 was taken, I was in the house but away from my desk. I would have voted yes.

Driver

### SB 1619 ON THIRD READING (Morrison - House Sponsor)

**SB 1619**, A bill to be entitled An Act relating to the confidentiality of certain employment information, including unemployment compensation information; providing criminal penalties.

A record vote was requested.

**SB 1619** was passed by (Record 1656): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; 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; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Chavez; England; Giddings; Moreno.

**SB 1731 ON THIRD READING**  
**(Isett, Rose, Delisi, and Zerwas - House Sponsors)**

**SB 1731**, A bill to be entitled An Act relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities; providing penalties.

**Amendment No. 1**

Representative McReynolds offered the following amendment to **SB 1731**:

Amend **SB 1731** on third reading as follows:

(1) Strike the SECTIONS of the bill, as added by Amendment No. 6 by McReynolds, that add or amend the following:

Subdivisions (1), (3), (4-a), (5), (6), (7), (8), (8-a), (10), (11-a), (12), (14-a), (16), (17), (17-a), (20), (21), (21-a), and (22), Section 108.002, Health and Safety Code; and

Sections 108.006, 108.009, 108.0095, 108.010, 108.011, 108.012, 108.013, 108.0135, and 108.014, Health and Safety Code.

(2) Add the following appropriately numbered SECTIONS to the bill:

SECTION \_\_\_\_\_. Section 108.002, Health and Safety Code, is amended by amending Subdivisions (1), (3), (5), (7), (8), (12), (17), (20), (21), and (22) and adding Subdivisions (4-a), (8-a), and (14-a) to read as follows:

(1) "Accurate and consistent data" means data that has been edited by the department ~~[council]~~ and subject to provider validation and certification.

(3) "Certification" means the process by which a provider confirms the accuracy and completeness of the data set required to produce the public use data file in accordance with department ~~[council]~~ rule.

(4-a) "Commission" means the Health and Human Services Commission.

(5) "Confidential data" means data that is made confidential under this chapter, other state law, or federal law ~~["Council" means the Texas Health Care Information Council]~~.

(7) "Department" means the ~~[Texas]~~ Department of State Health Services.

(8) "Edit" means to use an electronic standardized process developed and implemented by the department ~~[council rule]~~ to identify potential errors and mistakes in data elements by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

(8-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(12) "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, ~~[chronic disease hospital]~~, or other type of hospital.

(14-a) "Program director" means the primary department employee responsible for performing the functions and exercising the authority of the program director and includes the program director's designee.

(17) "Public use data" means patient level data relating to individual hospitalizations that has ~~[not been summarized or analyzed, that has]~~ had patient identifying information removed, that identifies physicians only by use of uniform physician identifiers, and that is severity and risk adjusted, edited, and

verified for accuracy and consistency. Public use data may exclude some data elements submitted to the department [council]. Public use data does not include confidential data.

(20) "Uniform patient identifier" means an identifier [~~a number~~] assigned by the department [council] to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(21) "Uniform physician identifier" means an identifier [~~a number~~] assigned by the department [council] to an individual physician and composed of numeric, alpha, or alphanumeric characters.

(22) "Validation" means the process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification in accordance with department [council] rule.

SECTION \_\_\_\_\_. Section 108.009, Health and Safety Code, is amended to read as follows:

Sec. 108.009. DATA SUBMISSION AND COLLECTION. (a) The department [council] may collect, and, except as provided by Subsections (c) and (d), providers shall submit to the department [council] or another entity as determined by the department [council], all data required by this section. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(b) The department [council] shall recommend [adopt] rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data. A rule [~~adopted by the council~~] that requires submission of a data element that, before adoption of the rule, was not required to be submitted may not take effect before the 90th day after the date the rule is adopted and must take effect not later than the first anniversary after the date the rule is adopted.

(c) A rural provider may, but is not required to, provide the data required by this chapter. A hospital may, but is not required to, provide the data required by this chapter if the hospital:

(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:

(A) the patient or any person legally obligated to support the patient;

(B) a third-party payor; or

(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care.

(d) The department [council] may not collect data from individual physicians or from an entity that is composed entirely of physicians and that is a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes) or formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code, a limited liability partnership organized under Section 3.08, Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), or described by Subchapter J, Chapter 152, Business Organizations Code, or a limited liability company organized under the Texas Limited Liability

Company Act (Article 1528n, Vernon's Texas Civil Statutes) or formed under the Texas Limited Liability Company Law, as described by Section 1.008, Business Organizations Code, except to the extent the entity owns and operates a health care facility in this state. This subsection does not prohibit the release of data about physicians using uniform physician identifiers that has been collected from a health care facility under this chapter.

~~(e) The council shall establish the department as the single collection point for receipt of data from providers. With the approval of the council and the board, the department may transfer collection of any data required to be collected by the department under any other law to the statewide health care data collection system.]~~

(f) The department [council] may not require providers to submit data more frequently than quarterly, but providers may submit data on a more frequent basis.

(g) The department may [council shall] coordinate data collection with the data collection formats used by federally qualified health centers. To satisfy the requirements of this chapter:

(1) a federally qualified health center shall submit annually to the department [council] a copy of the Medicaid cost report of federally qualified health centers; and

(2) a provider receiving federal funds under 42 U.S.C. Section 254b, 254c, or 256 shall submit annually to the department [council] a copy of the Bureau of Common Reporting Requirements data report developed by the United States Public Health Service.

(h) The department [council] shall coordinate data collection with the data submission formats used by hospitals and other providers. The department [council] shall accept data in the format developed by the National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA-1500 or their successors or other universally accepted standardized forms that hospitals and other providers use for other complementary purposes.

(i) The department [council] shall recommend rules on [develop by rule] reasonable alternate data submission procedures for providers that do not possess electronic data processing capacity.

(k) The department [council] shall collect health care data elements relating to payer type, the racial and ethnic background of patients, and the use of health care services by consumers.

(m) To the extent feasible, the department [council] shall obtain from public records the information that is available from those records.

(o) A provider of a health benefit plan shall annually submit to the department [council] aggregate data by service area required by the Health Plan Employer Data Information Set (HEDIS) as operated by the National Committee for Quality Assurance. The department [council] may approve the submission of data in accordance with other methods generally used by the health benefit plan industry. If the Health Plan Employer Data Information Set does not generally apply to a health benefit plan, the department [council] shall require submission of data in accordance with other methods. This subsection does not relieve a health care facility that provides services under a health benefit plan from the requirements of this chapter. Information submitted under this section is subject to Section 108.011 but is not subject to Section 108.010.

SECTION \_\_\_\_\_. Section 108.006, Health and Safety Code, is amended to read as follows:

Sec. 108.006. POWERS AND DUTIES OF DEPARTMENT [COUNCIL].

(a) The department [council] shall develop a statewide health care data collection system to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. The department [council] shall:

(1) direct the collection, dissemination, and analysis of data under this chapter;

(2) ~~contract with the department to collect the data under this chapter;~~  
~~[(3)]~~ adopt policies and recommend rules necessary to carry out this chapter, including rules concerning data collection requirements;

(3) ~~[(4)]~~ build on and not duplicate other data collection required by state or Federal law, by an accreditation organization, or by executive commissioner [board] rule;

(4) ~~[(5)]~~ working with appropriate agencies, review public health data collection programs in this state and recommend, where appropriate, consolidation of the programs and any legislation necessary to effect the consolidation or obtain data collected by other state agencies;

(5) ~~[(6)]~~ assure that public use data is made available and accessible to interested persons;

(6) recommend rules regarding ~~[(7) prescribe by rule]~~ the process for providers to submit data consistent with Section 108.009;

(7) ~~[(8) adopt by rule and implement a methodology to collect and disseminate data reflecting provider quality in accordance with Section 108.010;~~

~~[(9)]~~ make annual reports to the legislature, the governor, and the public on:

(A) the charges and rate of change in the charges for health care services in this state;

(B) the effectiveness of the department [council] in carrying out the legislative intent of this chapter;

(C) if applicable, any recommendations on the need for further legislation; and

(D) the quality and effectiveness of health care and access to health care for all citizens of this state;

(8) ~~[(10)]~~ develop an annual work plan and establish priorities to accomplish its duties;

(9) ~~[(11)]~~ provide consumer education on the interpretation and understanding of the public use or provider quality data before the data is disseminated to the public;

(10) ~~[(12)]~~ work with the commission [Health and Human Services Commission] and each health and human services agency that administers a part of the state Medicaid program to avoid duplication of expenditures of state funds for computer systems, staff, or services in the collection and analysis of data relating to the state Medicaid program; and

(11) provide data and ~~[(13) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards; and~~

~~[(14) develop and implement a health care]~~ information ~~[plan]~~ to be used by the department to:

(A) support public health and preventative health initiatives;

(B) assist in the delivery of primary and preventive health care services;

(C) facilitate the establishment of appropriate benchmark data to measure performance improvements;

(D) establish and maintain a systematic approach to the collection, storage, and analysis of health care data for longitudinal, epidemiological, and policy impact studies; and

(E) develop and use system-based protocols to identify individuals and populations at risk.

(b) The department [council] may recommend[~~+~~

~~(1) employ or contract with the department to employ an executive director and other staff, including administrative personnel, necessary to comply with this chapter and rules adopted under this chapter;~~

~~(2) engage professional consultants as it considers necessary to the performance of its duties;~~

~~(3) adopt] rules clarifying which health care facilities must provide data under this chapter[; and~~

~~(4) apply for and receive any appropriation, donation, or other funds from the state or federal government or any other public or private source, subject to Section 108.015 and limitations and conditions provided by legislative appropriation].~~

(c) The department [council] may not establish or recommend rates of payment for health care services.

~~(d) The council may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract with the department without the board's approval.]~~

(e) In the collection of data, the department [council] shall consider the research and initiatives being pursued by the United States Department of Health and Human Services, the National Committee for Quality Assurance, and the Joint Commission on Accreditation of Healthcare Organizations to reduce potential duplication or inconsistencies. The executive commissioner [council] may not adopt rules that conflict with or duplicate any federally mandated data collection programs or requirements of comparable scope.

(f) The department [council] shall recommend rules on [~~prescribe by rule] a public use data element list [file minimum data set] that maintains patient confidentiality and establishes data accuracy and consistency.~~

(g) The public use data element list [~~file minimum data set] as defined by [council] rule is subject to annual review by the department [council with the assistance of the advisory committee under Section 108.003(g)(5). The purpose of the review is] to evaluate requests to modify the existing public use [~~minimum] data element list [set] and editing process of those data elements. A decision to modify the public use [minimum] data element list [set] by the addition or deletion of data elements shall include consideration of the value of the specific data to be added or deleted and the technical feasibility of establishing data accuracy and consistency. The department [council] may also consider the costs to the department [council] and providers associated with modifying the public use [~~minimum] data element list [set].~~~~~~

(h) In accordance with Sections 108.013(k), (l), (m), and (n) and [~~Section] 108.0135, the department [council] may release data collected under Section 108.009 that is not included in the public use data element list [file minimum data set] established under this chapter [~~Subsection (f)].~~~~

SECTION \_\_\_\_\_. Section 108.010, Health and Safety Code, is amended to read as follows:

Sec. 108.010. ~~[COLLECTION AND]~~ DISSEMINATION OF PROVIDER QUALITY REPORTS ~~[DATA]~~. (a) Subject to Section 108.009, the department ~~[council]~~ shall gather ~~[collect]~~ data reflecting provider quality based on a methodology and review process established through the executive commissioner's ~~[council's]~~ rulemaking process. The methodology shall identify and measure quality standards and adhere to any federal mandates.

~~[(b) The council shall study and analyze initial methodologies for obtaining provider quality data, including outcome data.]~~

(c) The department ~~[council]~~ shall test the methodology for a period of time to be determined by the department ~~[by collecting provider quality data for one year, subject to Section 108.009]~~. This requirement to test a methodology applies only to methodologies that have not previously been used by the department. The department ~~[council]~~ may test using pilot methodologies. Any ~~[After collecting provider quality data for one year, the council shall report findings applicable to a provider to that provider and allow the provider to review and comment on the initial provider quality data applicable to that provider. The council shall verify the accuracy of the data during this review and revision process. After the review and revision process,]~~ provider quality ~~[data for subsequent]~~ reports shall be published and made available to the public, on a time schedule the department ~~[council]~~ considers appropriate.

(d) If the department ~~[council]~~ determines that a provider quality data to be published under Subsection (c) does not provide the intended result or is inaccurate or inappropriate for dissemination, the department ~~[council]~~ is not required to publish or release the data or reports based in whole or in part on the data. This subsection does not affect the release of public use data in accordance with Section 108.011 or the release of information submitted under Section 108.009(o).

(e) The department shall allow ~~[council shall adopt rules allowing]~~ a provider to submit concise written comments regarding any specific provider quality data to be released concerning the provider. The department ~~[council]~~ shall make the comments available to the public at the department ~~[office of the council]~~ and in an electronic form accessible through the Internet. The comments shall be attached to any public release of provider quality data. Providers shall submit the comments to the department ~~[council]~~ to be attached to the public release of provider quality data in the same format as the provider quality data that is to be released.

(f) The methodology adopted by the department ~~[council]~~ for measuring quality shall include case-mix qualifiers, severity adjustment factors, adjustments for medical education and research, or ~~[and]~~ any other factors necessary to accurately reflect provider quality.

(g) In addition to the requirements of this section, any release of provider quality data shall comply with Sections 108.011(e) and (f).

(h) A provider quality ~~[data]~~ report may not identify an individual physician by name, but must identify the physician by the uniform physician identifier designated by the department ~~[council]~~ under Section 108.011(c).

(i) The department ~~[council]~~ shall release provider quality data in an aggregate form without uniform physician identifiers when:

- (1) the data relates to providers described by Section 108.0025(1); or

(2) the cell size of the data is below the minimum size established by council rule that would enable identification of an individual patient or physician.

SECTION \_\_\_\_\_. Section 108.011, Health and Safety Code, is amended to read as follows:

Sec. 108.011. DISSEMINATION OF PUBLIC USE DATA AND DEPARTMENT ~~[COUNCIL]~~ PUBLICATIONS. (a) The department ~~[council]~~ shall promptly provide public use data and data collected in accordance with Section 108.009(o) to those requesting it. The public use data does not include provider quality data prescribed by Section 108.010 or confidential data prescribed by Section 108.013.

(b) Subject to the restrictions on access to department ~~[council]~~ data prescribed by Sections 108.010 and 108.013, and using the public use data and other data, records, and matters of record available to it, the department ~~[council]~~ shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section 108.006(a). The department ~~[council]~~ must issue the reports at least annually.

(c) Subject to the restrictions on access to department ~~[council]~~ data prescribed by Sections 108.010 and 108.013, the department ~~[council]~~ shall use public use data to prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures. The reports must provide the data in a manner that identifies individual providers, including individual physicians, and that identifies and compares data elements for all providers. Individual physicians may not be identified by name, but shall be identified by uniform physician identifiers. The department ~~[council by rule]~~ shall recommend rules and designate the characters to be used as uniform physician identifiers.

(c-1) The department ~~[council]~~ shall use public use data to prepare and issue reports that provide information for review and analysis by the commission ~~[Health and Human Services Commission]~~ relating to services that are provided in a niche hospital, as defined by Section 105.002, Occupations Code, and that are provided by a physician with an ownership interest in the niche hospital.

(c-2) Subsection (c-1) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) The department ~~[council]~~ shall adopt procedures to establish the accuracy and consistency of the public use data before releasing the public use data to the public.

(e) If public use data is requested from the department ~~[council]~~ about a specific provider, the department ~~[council]~~ shall notify the provider about the release of the data. This subsection does not authorize the provider to interfere with the release of that data.

(f) A report issued by the department ~~[council]~~ shall include a reasonable review and comment period for the affected providers before public release of the report.

(g) The department ~~[council]~~ shall provide a process ~~[adopt rules]~~ allowing a provider to submit concise written comments regarding any specific public use data to be released concerning the provider. The department ~~[council]~~ shall make the comments available to the public ~~[and the office of the council]~~ and in an electronic form accessible through the Internet. The comments shall be attached

to any public release of the public use data. Providers shall submit the comments to the department [council] to be attached to the public release of public use data in the same format as the public use data that is to be released.

(h) Media devices ~~[Tapes]~~ containing public use data and provider quality reports that are released to the public must include general consumer education material, including an explanation of the benefits and limitations of the information provided in the public use data and provider quality reports.

(i) The department [council] shall release public use data ~~[in an aggregate form]~~ without uniform physician identifiers when:

(1) the data relates to providers described by Section 108.0025(1); or

(2) the cell size of the data is below the minimum size established by department [council] rule that would enable identification of an individual patient or physician when combined with other data elements from the public use data element list.

(j) Notwithstanding Section 552.021 or 552.221, Government Code, the department is not required to make data available or produce data for inspection or duplication under Chapter 552, Government Code.

SECTION \_\_\_\_\_. Section 108.012, Health and Safety Code, is amended to read as follows:

Sec. 108.012. COMPUTER ACCESS TO DATA. (a) The department [council] shall provide a means for computer [computer to computer] access to the public use data. All data and reports shall maintain patient confidentiality as provided by Section 108.013.

(b) The department [council] may charge a person requesting public use or provider quality data a fee for the data. The fees may reflect the quantity of information provided and the expense incurred by the department [council] in collecting and providing the data ~~[and shall be set at a level that will raise revenue sufficient for the operation of the council. The council may not charge a fee for providing public use data to another state agency].~~

SECTION \_\_\_\_\_. Section 108.013, Health and Safety Code, is amended to read as follows:

Sec. 108.013. CONFIDENTIALITY AND GENERAL ACCESS TO DATA. (a) The data received by the department [council] shall be used by the department [council] for the benefit of the public. ~~[Subject to specific limitations established by this chapter and council rule, the council shall make determinations on requests for information in favor of access.]~~

(b) The department [council by rule] shall designate the characters to be used as uniform patient and physician identifiers. The basis for assignment of the characters and the manner in which the characters are assigned are confidential.

(c) Unless specifically authorized by this chapter, the department [council] may not release and a person or entity may not gain access to any data:

(1) that could reasonably be expected to reveal the identity of a patient;

(2) that could reasonably be expected to reveal the identity of a physician;

(3) disclosing provider discounts or differentials between payments and billed charges;

(4) relating to actual payments to an identified provider made by a payer; or

(5) submitted to the department [~~council~~] in a uniform submission format that is not included in the public use data element list described by ~~set established under~~ Sections 108.006(f) and (g), except in accordance with Subsections (k), (l), (m), and (n) and Section 108.0135.

~~(d) All data collected and used by the department [and the council] under this chapter is subject to the confidentiality provisions and criminal penalties of:~~

- ~~(1) Section 311.037;~~
- ~~(2) Section 81.103; and~~
- ~~(3) Section 159.002, Occupations Code.~~

~~(e) Data on patients and compilations produced from the data collected that identify patients are not:~~

- ~~(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or~~
- ~~(2) admissible in any civil, administrative, or criminal proceeding.~~

~~(f) Data on physicians and compilations produced from the data collected that identify physicians are not:~~

- ~~(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or~~
- ~~(2) admissible in any civil, administrative, or criminal proceeding.~~

~~(g) The department [council] may not release data elements in a manner that will reveal the identity of a patient. The department [council] may not release data elements in a manner that will reveal the identity of a physician.~~

~~(h) Subsections (c) and (g) do not prohibit the release of a uniform physician identifier in conjunction with associated public use data in accordance with Section 108.011 or a provider quality report in accordance with Section 108.010.~~

~~(i) Notwithstanding any other law, the [council and the] department may not provide information made confidential by this section to any other agency of this state.~~

~~(j) The department [council] shall recommend a [by] rule to [~~with the assistance of the advisory committee under Section 108.003(g)(5),~~] develop and implement a mechanism to comply with Subsections (c)(1) and (2).~~

~~(k) The department may disclose data collected under this chapter that is not included in public use data to any program within the department upon review and approval by the institutional or other review board established under Section 108.0135. This subsection does not authorize disclosure of physician identifying data.~~

~~(l) The department shall implement safeguards to ensure that the department maintains the confidentiality of confidential data in the possession of the department. The department shall identify the confidential data to a program within the department receiving the data as described by Subsection (k). The program receiving the data must ensure that the confidential data remains confidential.~~

~~(m) Notwithstanding other law, the confidential data collected under this chapter that is disclosed to another program within the department under this section remains subject to the confidentiality provisions of this chapter.~~

~~(n) Subsections (c), (d), and (g) and Sections 108.010(g) and (h) and 108.011(e) and (f) do not apply to the disclosure of data to a department program with respect to which the department is given approval to disclose data under this section. This subsection does not authorize disclosure of physician identifying data.~~

SECTION \_\_\_\_\_. Section 108.0135, Health and Safety Code, is amended to read as follows:

Sec. 108.0135. INSTITUTIONAL ~~[SCIENTIFIC]~~ REVIEW BOARD ~~[PANEL]~~. (a) The department ~~[council]~~ shall establish a department institutional review board or similar privacy board ~~[scientific review panel]~~ to review and approve valid requests for access to data not contained in the ~~[information other than]~~ public use data element list established by rule, excluding the names and identification numbers of the patients and physicians. The members of the board ~~[panel]~~ shall have experience and expertise in ethics, patient confidentiality, and health care data.

(b) For purposes of Subsection (a), an identification number is any unique identifier composed of numeric, alpha, or alphanumeric characters assigned by a person to the patient or physician, but does not include a uniform identifier assigned by the department under this chapter ~~[to assist the panel in determining whether to approve a request for information, the council shall adopt rules similar to the federal Health Care Financing Administration's guidelines on releasing data]~~.

~~[(c) A request for information other than public use data must be made on the form created by the council.]~~

SECTION \_\_\_\_\_. Subsections (b), (c), and (d), Section 108.014, Health and Safety Code, are amended to read as follows:

(b) A person who fails to supply available data under this chapter ~~[Sections 108.009 and 108.010]~~ is liable for a civil penalty of not less than \$500 ~~[\$1,000 or more than \$10,000]~~ for each act of violation.

(c) The attorney general, at the request of the department ~~[council]~~, shall enforce this chapter. The venue of an action brought under this section is in Travis County.

(d) A civil penalty recovered in a suit instituted by the attorney general under this chapter shall be deposited in the general revenue fund and may be appropriated to ~~[the credit of]~~ the department ~~[health care information account]~~.

(3) Renumber subsequent SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

## Amendment No. 2

Representative Isett offered the following amendment to **SB 1731**:

Amend **SB 1731** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 524, Insurance Code, is amended to read as follows:

### CHAPTER 524. TEXLINK TO HEALTH COVERAGE ~~[AWARENESS AND EDUCATION]~~ PROGRAM

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 524.001. DEFINITIONS. In this chapter:

(1) "Division" means the division of the department that administers the TexLink to Health Coverage Program.

(2) "Program" means the TexLink to Health Coverage Program established in accordance with this chapter.

Sec. 524.002. DIVISION RESPONSIBILITIES. Under the direction of the commissioner, the division implements this chapter.

Sec. 524.003. ~~TEXLINK TO HEALTH COVERAGE PROGRAM ESTABLISHED.~~ (a) The department shall develop and implement a health coverage ~~[public awareness and education]~~ program that complies with this chapter. The program must:

(1) educate the public about the importance and value of health coverage;

(2) promote personal responsibility for health care through the purchase of health coverage;

(3) assist small employers, individuals, and others seeking to purchase health coverage with technical information necessary to understand available health coverage products;

(4) promote and facilitate the development and availability of new health coverage options;

(5) increase public awareness of health coverage options available in this state; and

(6) ~~educate the public on the value of health coverage; and~~ provide information on health coverage options, including health savings accounts and compatible high deductible health benefit plans.

(b) The program must include a public awareness and education component.

[Sections 524.004-524.050 reserved for expansion]

#### SUBCHAPTER B. PUBLIC AWARENESS AND EDUCATION

Sec. 524.051. ~~INFORMATION ABOUT SPECIFIC HEALTH BENEFIT PLAN ISSUERS.~~ In materials produced for the program, the division ~~[(b) The department]~~ may include information about specific health benefit plan ~~[coverage]~~ issuers but may not favor or endorse one particular issuer over another.

Sec. 524.052. ~~[524.002.] PUBLIC SERVICE ANNOUNCEMENTS.~~ The division ~~[department]~~ shall develop and make public service announcements to educate consumers and employers about the availability of health coverage in this state.

Sec. 524.053. ~~[524.003.] INTERNET WEBSITE; PRINTED MATERIALS; NEWSLETTER [PUBLIC EDUCATION].~~ (a) The division ~~[department]~~ shall develop an Internet website and printed materials designed to educate small employers, individuals, and others seeking to purchase health coverage ~~[the public]~~ about ~~[the availability of]~~ health coverage in accordance with Section 524.003(a) ~~[in this state, including information about health savings accounts and compatible high deductible health benefit plans].~~

(b) The division shall make the printed materials produced under the program available to small employers, individuals, and others seeking to purchase health coverage. The division may:

(1) distribute the printed materials through facilities such as libraries, health care facilities, and schools as well as other venues the division selects; and

(2) use other distribution methods the division selects.

(c) The division may produce a newsletter to provide updated information about health coverage to subscribers who elect to receive the newsletter. The division may:

(1) produce a newsletter under this subsection for small employers, for individuals, or for other purchasers of health coverage;

(2) distribute the newsletter on a monthly, quarterly, or other basis; and

(3) distribute the newsletter as a printed document or electronically.

Sec. 524.054. TOLL-FREE TELEPHONE HOTLINE; ACCESS TO INFORMATION. (a) The division may operate a toll-free telephone hotline to respond to inquiries and provide information and technical assistance concerning health coverage products.

(b) The Health and Human Services Commission, through its 2-1-1 telephone number for access to human services, may disseminate information regarding health coverage products provided to the commission by the department and may refer inquiries regarding health coverage products to the toll-free telephone hotline. The department may provide information to the Health and Human Services Commission as necessary to implement this subsection.

Sec. 524.055. EDUCATION FOR HIGH SCHOOL STUDENTS. (a) The division may develop educational materials and a curriculum to be used in high school classes that educate students about:

(1) the importance and value of health coverage;

(2) comparing health benefit plans; and

(3) understanding basic provisions contained in health benefit plans.

(b) The division may consult with the Texas Education Agency in developing educational materials and a curriculum under this section.

Sec. 524.056. HEALTH COVERAGE FAIRS. (a) The division may conduct health coverage fairs to provide small employers, individuals, and others seeking to purchase health coverage the opportunity to obtain information about health coverage from division employees and from health benefit plan issuers and agents that elect to participate.

(b) The division shall seek to obtain funding for health coverage fairs conducted under this section through gifts and grants obtained in accordance with Subchapter D.

Sec. 524.057. COMMUNITY EVENTS. The division may participate in events held in this state to promote awareness of the importance and value of health coverage and to educate small employers, individuals, and others seeking to purchase health coverage about health coverage in accordance with Section 524.003(a).

Sec. 524.058. HEALTH COVERAGE PROVIDED THROUGH COLLEGES AND UNIVERSITIES. The division may cooperate with a public or private college or university to promote enrollment in health coverage programs sponsored by or through the college or university.

Sec. 524.059. SUPPORT FOR COMMUNITY-BASED PROJECTS. The division may provide support and assistance to individuals and organizations seeking to develop community-based health coverage plans for uninsured individuals.

Sec. 524.060. OTHER EDUCATION. The division may ~~department shall~~ provide other appropriate education to the public regarding health coverage and the importance and value of health coverage in accordance with Section 524.003(a).

Sec. 524.061. ~~[524.004.]~~ TASK FORCE. (a) The commissioner may ~~shall~~ appoint a task force to make recommendations regarding the division's duties under this subchapter ~~[health coverage public awareness and education program]. If appointed, the ~~the~~ task force must be ~~is~~ composed of:~~

(1) one representative from each of the following groups or entities:

(A) health ~~benefit~~ coverage consumers;

(B) small employers;

(C) employers generally;

- (D) insurance agents;
  - (E) the office of public insurance counsel;
  - (F) the Texas Health Insurance Risk Pool;
  - (G) physicians;
  - (H) advanced practice nurses;
  - (I) hospital trade associations; and
  - (J) medical units of institutions of higher education;
- (2) a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; and
- (3) one or more representatives of health benefit plan issuers.

(b) In addition to the individuals listed in Subsection (a), the commissioner may select to serve on any task force one or more individuals with experience in public relations, marketing, or another related field of professional services.

(c) The division may [department shall] consult the task force regarding the content for the public service announcements, Internet website, printed materials, and other educational materials required or authorized by this subchapter [chapter]. The commissioner has authority to make final decisions as to what the program's materials will contain.

[Sections 524.062-524.100 reserved for expansion]

**SUBCHAPTER C. ASSISTANCE FOR CERTAIN BUSINESSES**

Sec. 524.101. FEDERAL TAX "TOOL KIT" FOR CERTAIN BUSINESSES. The division may produce materials that provide information about obtaining health coverage in a manner that qualifies for favorable treatment under federal tax laws.

Sec. 524.102. ASSISTANCE FOR SMALL EMPLOYERS AND SINGLE-EMPLOYEE BUSINESSES. Division staff may respond to telephone inquiries regarding health coverage options for small employers and single-employee businesses and may speak at events to provide information about health coverage options for small employers and single-employee businesses and about the importance and value of health coverage.

Sec. 524.103. COOPERATIVES FOR SMALL AND LARGE EMPLOYERS. The division may provide information regarding the formation of or participation in private purchasing cooperatives and health group cooperatives in accordance with Subchapter B, Chapter 1501.

Sec. 524.104. ACCOUNTANT. The division may consult an accountant with experience in federal tax law and the purchase of group health coverage as necessary to implement this subchapter.

[Sections 524.105-524.150 reserved for expansion]

**SUBCHAPTER D. FUNDING**

Sec. 524.151 [524.005]. FUNDING. The department may accept gifts and grants from any party, including a health benefit plan issuer or a foundation associated with a health benefit plan issuer, to assist with funding the program. The department shall adopt rules governing acceptance of donations that are consistent with Chapter 575, Government Code. Before adopting rules under this section [subsection], the department shall:

- (1) submit the proposed rules to the Texas Ethics Commission for review; and
- (2) consider the commission's recommendations regarding the regulations.

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

**Amendment No. 3**

Representative Isett offered the following amendment to **SB 1731**:

Amend **SB 1731** on Third Reading by adding the following Section 15 and renumbering subsequent Sections accordingly:

**SECTION 15. REPORTING REQUIREMENTS OF HIGHER EDUCATION** (a) Not later than January 15 of each year, the governing board of an institution of higher education shall report to the legislature the amount of the following sources of income for funding the institution's student health center:

(1) money received from student fees and charges;

(2) money received from the operation of the student health center's pharmacy;

(3) money received as a result of a claim filed by or on behalf of the institutions student health center under a health benefit plan sponsored by or administered on behalf of the institution; and

(4) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan other a plan sponsored or administered on behalf of the institution.

Amendment No. 3 was adopted.

**Amendment No. 2 - Vote Reconsidered**

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

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

A record vote was requested.

**SB 1731**, as amended, was passed by (Record 1657): 145 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; 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; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Farias; Smithee.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Castro on motion of Chavez.

**SB 589 ON THIRD READING**

**(J. Davis - House Sponsor)**

**SB 589**, A bill to be entitled An Act relating to Temporary Assistance for Needy Families (TANF) employment programs and participation in those programs by certain parents who are not TANF recipients.

A record vote was requested.

**SB 589** was passed by (Record 1658): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Moreno; 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(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Castro.

Absent — Gonzalez Toureilles; Zedler.

**SB 1523 ON THIRD READING**

**(Dukes - House Sponsor)**

**SB 1523**, A bill to be entitled An Act relating to facilitating and supporting efforts of certain municipalities and counties to promote economic development by hosting certain major sporting or athletic events.

**Amendment No. 1**

Representative Eiland offered the following amendment to **SB 1523**:

Amend **SB 1523** by adding new sections as follows:

SECTION \_\_\_\_\_. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (e-2) to read as follows:

(e-2) At an election called and held under Subsection (d) of this section, the eligible city may also allow the voters to vote on a ballot proposition that limits the length of time that a sales and use tax may be imposed. An eligible city that imposes a tax for a limited time under this subsection may later extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose in the same manner as an election held under Section 4A(n) of this Act. Additionally, at an election held under Subsection (d) of this section, the city may also allow the voters to vote on a ballot proposition that limits the use of the sales and use tax to a specific project. A corporation that has been created to perform a specific project as provided by this subsection may retain its corporate existence and perform other projects as may be approved by the voters of the city under an election called and held for that purpose in the same manner as Section 4A(r) of this Act provides for an election held under Section 4A(d) of this Act. Before expending funds to undertake a project, a corporation shall hold a public hearing as otherwise provided by this section.

SECTION \_\_\_\_\_. Section 4B(n), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(n) Before expending funds to undertake a project, a corporation under this section shall hold at least one public hearing on the proposed project. A corporation the creation of which was authorized by an eligible city with a population of less than 20,000 is not required to hold a public hearing under this subsection if the proposed project is defined by Section 2 of this Act.

Amendment No. 1 was adopted.

A record vote was requested.

**SB 1523**, as amended, was passed by (Record 1659): 139 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Crabb; Elkins; Flynn; Geren; Howard, C.; Jackson; Riddle.

Present, not voting — Mr. Speaker.

Absent, Excused — Castro.

Absent — Farias; Swinford.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1659. I intended to vote no.

Berman

I was shown voting yes on Record No. 1659. I intended to vote no.

Harper-Brown

**SB 101 ON THIRD READING**

**(Morrison, Branch, Woolley, Eissler, and Goolsby - House Sponsors)**

**SB 101**, A bill to be entitled An Act relating to the automatic admission of undergraduate students to general academic teaching institutions.

(Woolley in the chair)

**Amendment No. 1**

Representative Villarreal offered the following amendment to **SB 101**:

Amend **SB 101**, on third reading, in SECTION 1 of the bill, in amended Section 51.803, Education Code, by adding the following appropriately lettered subsection:

( ) If a general academic teaching institution admits applicants under Subsections (c) and (d) in an academic year, the institution shall offer admission to applicants qualified for automatic admission under Subsection (a) until:

(1) a sufficient number of those applicants have accepted offers to reach the percentage of the institution's enrollment capacity designated for first-time resident undergraduate students prescribed by Subsection (c); or

(2) every applicant qualified for admission under Subsection (a) has been offered admission to the institution.

Amendment No. 1 was withdrawn.

A record vote was requested.

**SB 101** was passed by (Record 1660): 77 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Eiland; Eissler; Elkins; Farabee; Flynn; Garcia; Gattis; Geren; Goolsby; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hill; Howard, C.; Howard, D.; Isett; Jackson; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Morrison; Murphy; Naishtat; O'Day; Parker; Patrick; Paxton; Phillips; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; West; Woolley(C); Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, B.; Davis, Y.; Deshotel; Dunnam; Dutton; England; Escobar; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Hughes; Jones; Keffer; King, T.; Leibowitz; Lucio; Mallory Caraway;

Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Smithee; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused — Castro.

Absent — Aycock; Hilderbran; Mowery; Pierson.

### STATEMENTS OF VOTE

When Record No. 1660 was taken, my vote failed to register. I would have voted yes.

Aycock

I was shown voting yes on Record No. 1660. I intended to vote no.

R. Cook

I was shown voting no on Record No. 1660. I intended to vote yes.

Dunnam

When Record No. 1660 was taken, my vote failed to register. I would have voted yes.

Hilderbran

### POSTPONED BUSINESS

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

(Speaker in the chair)

#### **SB 1640 ON THIRD READING** **(Chisum and Guillen - House Sponsors)**

**SB 1640**, A bill to be entitled An Act relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

**SB 1640** was read third time earlier today and was postponed until this time.

A record vote was requested.

**SB 1640** was passed by (Record 1661): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; 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; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto;

Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Deshotel; Gattis; Herrero; Martinez Fischer; Morrison; Mowery; Pierson; Talton; Veasey.

**SB 766 ON THIRD READING**  
**(Gattis - House Sponsor)**

**SB 766**, A bill to be entitled An Act relating to the transfer of powers and duties for accident reports from the Department of Public Safety of the State of Texas to the Texas Department of Transportation.

**SB 766** was read third time earlier today and was postponed until this time.

**Amendment No. 1**

Representative Taylor offered the following amendment to **SB 766**:

On third reading, Amend **SB 766**, as amended on second reading, as follows:

(1) Strike added Subsection (c)(1), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 1, lines 26-28), and substitute:

"(1) a person involved in the motor vehicle accident, a person who is the owner of or a currently recorded lienholder on a vehicle involved in the accident, or a person who owns property damaged as a result of the accident;"

(2) Add a new Subsection (e-1), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 3, between lines 27 and 28) to read as follows:

(e-1) Notwithstanding Subsection (e), a person may access from the department a motor vehicle accident report or information in a motor vehicle accident report during the 30-day period immediately after the date the report is filed if the person mails to the department by United States Certified mail a notarized statement on a form created by the department in which the person:

(A) certifies that the person filing the notarized statement is a person entitled to obtain the motor vehicle accident report under Subsection (c) of this Section,

(B) recognizes that during the 30-day period immediately after the date the report was filed, the report or the information is confidential and privileged; and

(C) certifies that during that period the report or information will not be:

(i) used in connection with a commercial solicitation of a person involved in the accident; or

(ii) knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(3) Strike the first clause of added Subsection (f), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 3, lines 29), which reads "As an alternative to requiring compliance with Subsection (e)", and substitute "As an alternative to requiring compliance with Subsection (e) or (e-1)".

(4) Strike added Subsection (h), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 4, lines 21-28).

(5) Redesignate added Subsection (i), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 4, line 29), as Subsection (h).

(6) Redesignate added Subsection (j), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 5, line 5), as Subsection (i).

(7) Strike added Subsection (k), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 5, lines 10-12).

(8) In added Subsection (l), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 5, lines 13), strike "(l) An offense under Subsection (i) or (j) is:" and substitute "(j) An offense under Subsection (h) or (i) is:"

(9) Redesignate added Subsection (m), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 5, line 26), as Subsection (k).

(10) Strike Subsection (n), Section 550.065, Transportation Code (Second Reading Amendment No. 1, page 6, lines 21-28), and substitute:

(1) ~~(n)~~ The fee for a copy of a motor vehicle accident ~~the~~ report or motor vehicle accident information is \$6 ~~[or the actual cost of the preparation of the copy, whichever is less]~~. The copy may be certified by the agency that holds the accident report ~~[department]~~ or the information ~~[governmental entity]~~ for an additional fee of \$2. The agency ~~[department or the governmental entity]~~ may issue a certification that no report or information is on file for a fee of \$6.

Amendment No. 1 was withdrawn.

Representative Gattis moved to postpone consideration of **SB 766** until 6 p.m. today.

The motion prevailed.

### **SB 1339 ON THIRD READING** **(Chisum - House Sponsor)**

**SB 1339**, A bill to be entitled An Act relating to allowing money in the disaster contingency fund to be used to provide assistance to producers of agricultural products affected by a disaster caused by severe drought or wildfire.

**SB 1339** was read third time earlier today and was postponed until this time.

#### **Amendment No. 1**

Representative Eiland offered the following amendment to **SB 1339**:

Amend **SB 1339** on third reading in SECTION 1 of the bill, in added Subsection (c) to Section 418.073, Government Code, as follows:

(1) Strike "severe drought or wildfire" and substitute "severe drought, wildfire, flood, storm, or hurricane".

(2) Between "any farm or ranch product" and the period, insert ", including a product produced by aquaculture as defined by Section 134.001, Agriculture Code".

Amendment No. 1 was adopted.

A record vote was requested.

**SB 1339**, as amended, was passed by (Record 1662): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; 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; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; 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; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Brown, F.; England; Moreno; Mowery; Pierson.

**STATEMENTS OF VOTE**

When Record No. 1662 was taken, I was in the house but away from my desk. I would have voted yes.

F. Brown

When Record No. 1662 was taken, I was in the house but away from my desk. I would have voted yes.

England

**MAJOR STATE CALENDAR**

**(consideration continued)**

**SB 3 ON THIRD READING**

**(Puente - House Sponsor)**

**SB 3**, A bill to be entitled An Act relating to the development, management, and preservation of the water resources of the state; providing penalties.

**Amendment No. 1**

Representative Puente offered the following amendment to **SB 3**:

Amend **SB 3**, on third reading, by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 13.002 (1-a), (5), and (8), Water Code, are amended to read as follows:

(1-a) "Landowner," "owner of a tract of land," and "owners of each tract of land" include multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

(5) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(8) "Executive director" means the executive director of the commission ~~[Texas Natural Resource Conservation Commission].~~

SECTION \_\_\_\_\_. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) If ~~[Except as provided by Subsection (b), if]~~ a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

(b) A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.

(c) The commission, after notice to the municipality and an opportunity for a hearing, may decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. This subsection does not apply to a certificate of public convenience and necessity for an area:

(1) that was transferred to a municipality on approval of the commission; and

(2) in relation to which the municipality has spent public funds.

(d) To the extent of a conflict between this section and Section 13.245, Section 13.245 prevails. [The commission may not extend a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. The portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void.]

SECTION \_\_\_\_\_. The changes to Water Code Sec. 13.2451 apply only to:

(1) an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act;

(2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act;

(3) a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued;

(4) an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and

(5) a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Puente offered the following amendment to **SB 3**:

Amend **SB 3** on third reading, by removing Floor Amendment No. 2 by Puente, adopted on second reading (on page 34-35 of the pre-filed amendments package).

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Hilderbran offered the following amendment to **SB 3**:

Amend **SB 3** on third reading, by amending Floor Amendment No. 54 by Hilderbran (page 92-93 of the pre-filed amendments package), as adopted on second reading, to read as follows:

Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2.\_\_\_\_. Section 36.113(d), Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holder;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) if the well will be located in a priority groundwater management area, including the Hill Country Priority Groundwater Management Area or in a county contiguous to the priority groundwater management area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation; and

(7) ~~(6)~~ the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 2.\_\_\_\_. Section 36.117(d), Water Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

(1) the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(3) [(2)] the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

#### **Amendment No. 4**

Representative Hilderbran offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Hilderbran amending **SB 3** on third reading, in added SECTION 2.\_\_\_\_, of the bill, in amended Section 36.113(d)(5), Water Code, between "county" and "contiguous" (page 1, line 23, of the amendment), by inserting "or groundwater conservation district".

Amendment No. 4 was adopted.

A record vote was requested.

Amendment No. 3, as amended, failed of adoption by (Record 1663): 29 Yeas, 103 Nays, 1 Present, not voting.

Yeas — Anchia; Branch; Cook, B.; Crabb; Driver; Farabee; Farias; Flores; Goolsby; Hamilton; Hardcastle; Herrero; Hilderbran; Hodge; Homer; Krusee; Kuempel; Macias; Mallory Caraway; McClendon; McReynolds; Miles; Puente; Riddle; Smith, T.; Solomons; Truitt; Vaught; Villarreal.

Nays — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Chavez; Chisum; Christian; Cohen; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hill; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Lucio; Madden; Martinez; McCall; Menendez; Merritt; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, W.; Strama; Swinford; Talton; Taylor; Thompson; Van Arsdale; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Burnam; Callegari; Coleman; Dunnam; Jones; Leibowitz; Martinez Fischer; Mowery; Oliveira; Paxton; Peña; Pierson; Smithee; Straus; Turner; Veasey.

#### **STATEMENT OF VOTE**

I was shown voting yes on Record No. 1663. I intended to vote no.

Truitt

**Amendment No. 5**

Representative Quintanilla offered the following amendment to **SB 3**:

Amend **SB 3** on third reading in the SECTION adding Section 43.0741, Local Government Code (added by Amendment No. 61 to Amendment No. 60), by adding a new Subsection (j) to Section 43.0741 as follows:

(j) This section does not apply to a district located in a county that:

- (1) has a population of 600,000 or more;
- (2) borders the United Mexican States; and
- (3) has a municipality with a population of 500,000 or more.

Amendment No. 5 was adopted.

**Amendment No. 6**

Representative Flores offered the following amendment to **SB 3**:

Amend **SB 3** on third reading by adding the following appropriately numbered article and sections to the bill and renumbering subsequent articles and sections accordingly:

ARTICLE \_\_\_\_ . LA JOYA SPECIAL UTILITY DISTRICT

SECTION \_\_\_\_ .01. Section 7201.001, Special District Local Laws Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Director" means a member of the board.

SECTION \_\_\_\_ .02. Section 7201.002(c), Special District Local Laws Code, is amended to read as follows:

(c) The [On the effective date of the Act enacting this chapter, the] corporation shall be dissolved and succeeded without interruption by the district as provided by Subchapter A1.

SECTION \_\_\_\_ .03. Section 7201.021, Special District Local Laws Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (f) to read as follows:

(a) After the temporary directors listed under Section 7201.051 have qualified for office under Section 49.055, Water Code, the receiver for the corporation [On the effective date of the Act enacting this chapter, the corporation] shall transfer the assets, debts, and contractual rights and obligations of the corporation to the district and provide notices and make recordings of the transfer required by the Water Code and general law.

(b) In accordance with the orders of the receivership court and not [Not] later than the 30th day after the date of the transfer under Subsection (a), the receiver for [board of directors of] the corporation shall commence dissolution proceedings of the corporation.

(d) The receiver for [board of directors of] the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and its succession in interest by [the creation of] the district in order [to replace it] to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) After the Texas Commission on Environmental Quality takes the action required by Subsection (e), the court shall terminate the receivership.

SECTION \_\_\_\_ .04. Section 7201.022, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010 [~~2008~~].

SECTION \_\_\_\_ .05. Sections 7201.051(a) and (b), Special District Local Laws Code, are amended to read as follows:

(a) ~~The temporary board consists of seven [The directors of the corporation who hold office on the effective date of the Act enacting this chapter shall serve as the temporary] directors who shall serve [of the district] until successor directors are elected and qualify for office.~~

(b) ~~The temporary directors of the district consist of the following persons, who are assigned position numbers as follows:~~

- ~~(1) Position 1, Janie G. Ramirez [Jose Luis Trigo];~~
- ~~(2) Position 2, Ricardo Perez [Jose Guadalupe Reyna];~~
- ~~(3) Position 3, Efrén Garza [George Barreiro];~~
- ~~(4) Position 4, Jerry Bell [Froilan Ramirez];~~
- ~~(5) Position 5, Alton Moore [Russell Wicker];~~
- ~~(6) Position 6, Marlou Prudencio [Benito Salinas]; and~~
- ~~(7) Position 7, Everado Torres [Manuel Ricardo Garcia];~~
- ~~(8) Position 8, Valente Alaniz, Jr.; and~~
- ~~(9) Position 9, Juan Lino Garza].~~

SECTION \_\_\_\_ .06. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.0512 and 7201.0513 to read as follows:

Sec. 7201.0512. TEMPORARY BOARD TRAINING. (a) Before December 31, 2007, each temporary director shall complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) The district shall reimburse a temporary director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Before the first election of directors, the temporary board shall establish a program of education for directors that includes information on:

- (1) the history of the district;
- (2) the district's enabling legislation;
- (3) Chapters 49 and 65, Water Code, and other laws that apply to the

district, including the requirements of the:

- (A) open meetings law, Chapter 551, Government Code; and
- (B) public information law, Chapter 552, Government Code;
- (4) relevant legal developments related to water district governance;
- (5) the legal duties and responsibilities of the board;
- (6) the requirements of conflict of interest laws and other laws relating

to public officials; and

(7) any applicable ethics policies adopted by the Texas Commission on Environmental Quality or the Texas Ethics Commission.

(b) The district shall pay any costs associated with the development of the education program from district revenue.

(c) The education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) The board may adopt bylaws modifying the education program as necessary to meet district needs.

SECTION \_\_\_\_ .07. Section 7201.052, Special District Local Laws Code, is amended by amending Subsections (a), (f), (g), and (h) and adding Subsections (i), (j), and (k) to read as follows:

(a) The district shall be governed by a board of seven ~~[not fewer than nine and not more than 11]~~ directors~~], elected in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section].~~

(f) On the uniform election date in May 2008, or in May 2009, if the election is postponed under Subsection (i) ~~[2006]~~, and on that uniform election date every third year after that date, the district shall hold an election to elect two ~~[three]~~ directors to serve in positions 1~~[-4,]~~ and 2 ~~[7]~~.

(g) On the uniform election date in May 2009, or in May 2010, if the election is postponed under Subsection (i) ~~[2007]~~, and on that uniform election date every third year after that date, the district shall hold an election to elect two ~~[three]~~ directors to serve in positions ~~[2,]~~ 3~~[7]~~ and 4 ~~[5]~~.

(h) On the uniform election date in May 2010, or in May 2011, if the election is postponed under Subsection (i) ~~[2008]~~, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 5, 6, ~~[8,]~~ and 7 ~~[9]~~.

(i) The temporary board ~~by order may~~ postpone until the uniform election date in May of the following year the first election for directors under each of Subsections (f), (g), and (h) if the temporary board determines that there is not sufficient time to comply with the requirements of law and to order the first election of directors to be held on the first uniform date specified by Subsection (f).

(j) A director may not serve consecutive terms.

(k) A person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

SECTION \_\_\_\_\_.08. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.053 and 7201.054 to read as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) The board shall elect from among its members one director to serve as district treasurer.

(b) The district treasurer shall comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Each elected director shall complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was elected.

(b) The district shall reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) A director who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

SECTION \_\_\_\_\_.09. (a) Except as otherwise provided by Chapter 7201, Special District Local Laws Code, as amended by this article, the La Joya Special Utility District is subject to:

(1) any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this article; or

(2) any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this article.

(b) This section does not relieve a person who served on the board of directors of the La Joya Water Supply Corporation of any individual or joint and several liability imposed by a court of this state for actions taken by that person on behalf of the corporation or prevent the La Joya Special Utility District from filing a claim for damages against that person.

(c) If the La Joya Special Utility District pays a claim of a person against the La Joya Water Supply Corporation, the district is subrogated to any rights of that person against the corporation to the extent of the amount paid to that person.

SECTION 10. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 11. This article 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, this article takes effect September 1, 2007.

Amendment No. 6 was adopted.

#### **Amendment No. 7**

Representative Miller offered the following amendment to **SB 3**:

Amend **SB 3** on third reading by adding the following appropriately numbered ARTICLE and renumbering the subsequent ARTICLES of the bill accordingly:

#### ARTICLE \_\_\_\_ . DISPOSAL WELL PERMITS

SECTION \_\_\_\_ .01. Section 27.034, Water Code, is amended by adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a-1) In connection with an application for a permit to dispose of oil and gas waste in a commercial disposal well, as defined by the railroad commission, the rules adopted under Subsection (a) must, at a minimum:

(1) require the applicant to give notice of the application to:

(A) each owner of record of each surface tract that adjoins the tract on which the well is proposed to be located;

(B) the commissioners court of the county in which the well is proposed to be located; and

(C) any groundwater conservation district in which the well is proposed to be located;

(2) require each owner of record of a surface tract who receives notice of the application under Subdivision (1)(A) to give notice of the application to each surface lessee or purchaser under a contract for deed, executory contract, or other executory conveyance of the tract who occupies a residence located on the tract;

(3) require the applicant to publish notice of the application in:

(A) a newspaper of general circulation in the county in which the well is proposed to be located; and

(B) the newspaper that is published in closest proximity to the proposed site of the well; and

(4) provide each person who receives notice of the application under Subdivision (1) an opportunity to request a public hearing on the application.

(a-2) The failure of a person who receives notice of an application under Subsection (a-1)(1)(A) to give notice of the application to any person to whom the person is required to give notice under Subsection (a-1)(2) does not invalidate any permit issued by the railroad commission.

(a-3) The railroad commission is not required to hold more than one public hearing on an application regardless of the number of persons who request a hearing.

SECTION \_\_\_\_ .02. Section 27.105(a), Water Code, is amended to read as follows:

(a) A person who knowingly or intentionally violates a provision of this chapter under the jurisdiction of the railroad commission, a rule of the railroad commission other than a rule adopted under Section 27.034(a-1)(2), or a term, condition, or provision of a permit issued by the railroad commission under this chapter is subject to a fine of not more than \$5,000 for each violation and for each day of violation. A violation under the jurisdiction of the commission is enforceable under Section 7.157.

Amendment No. 7 was adopted.

### **Amendment No. 8**

Representative Anchia offered the following amendment to **SB 3**:

Amend **SB 3** on third reading in ARTICLE 2 of the bill by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of that article accordingly:

SECTION 2.\_\_\_\_. Subchapter C, Chapter 11, Water Code, is amended by adding Section 11.098 to read as follows:

Sec. 11.098. USE OF WATER BY CERTAIN FACILITIES. (a) This section applies only to a facility described by Section 26.551(7):

(1) for which:

(A) an application for a permit under Section 382.0518, Health and Safety Code, was received by the commission on or before July 1, 2003; and

(B) a permit under Section 382.0518, Health and Safety Code, was not issued before September 1, 2005; and

(2) that is located:

(A) over an aquifer designated as a sole source aquifer under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); and

(B) in a priority groundwater management area designated by the Texas Commission on Environmental Quality.

(b) An operator of a facility described by Subsection (a) may not use appropriated surface water in connection with the operation of the facility.

Amendment No. 8 was adopted.

**Amendment No. 9**

Representative McClendon offered the following amendment to **SB 3**:

Amend **SB 3** as follows:

Subchapter Z, Chapter 402, Local Government Code, is amended by adding Section 402.911 to read as follows:

Sec. 402.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS.

(a) This section applies only to an area:

(1) that is located in a county that has a population of more than 1.3 million; and

(2) in which a customer's sewer service is provided by a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an area to which this section applies, the water service provider shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users. Relevant customer information provided under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. The notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person who fails to make timely payment after the person receives notice under Subsection (b). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On the receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water code.

Amendment No. 9 was adopted.

**Amendment No. 10**

Representative Rose offered the following amendment to **SB 3**:

Amend **SB 3** on third reading as follows:

(1) Add the following appropriately numbered article and sections to the bill and renumber subsequent articles and sections of the bill accordingly:

ARTICLE \_\_\_\_ . TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SECTION \_\_\_\_ .01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. "DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. "NATURE OF DISTRICT. The district is a municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. "CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2015.

Sec. 8269.004. "FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. "INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section \_\_.02 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section \_\_.02 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;

(4) the validity of the district's bonds, notes, or other indebtedness; or

(5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8269.023; or

(2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION       .02. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area:

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a 1/2" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;

THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:

1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and

S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast corner of the Brown 1.00 acre Tract 1;

THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:

S 00°10'12" E 410.74 feet to a 1/2" iron rod set at the approximate centerline of an underground pipeline for angle point,

S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and

S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May 6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);

THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:

S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,

S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and

S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;

THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:

S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,

S 00°09'57" W 1087.12 feet to a 4" cedar post found for angle point, and

S 00°22'11" W 1072.11 feet to a 1/2" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;

THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10" W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;

THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a 1/2" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed from Leslie True

Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a 1/2" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:

N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,

N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,

N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,

N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point,

and

N 86°46'01" W 426.90 feet to a 1/2" iron rod found with a plastic cap stamped "Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

N 08°19'22" E 124.79 feet to a 1/2" iron rod found with a plastic cap stamped "Byrn Survey" for corner, and

N 87°41'56" W 751.30 feet to a 1/2" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as 10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:

N 05°37'42" E (being the bearing basis for description) 734.58 feet to a 1/2" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and

N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;

THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:

N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,

N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,

N 08°41'46" E 86.90 feet to a 14" cedar tree stump found for angle point,

N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found for angle point,

N 24°14'46" E 623.77 feet to a 6" cedar fence post found for angle point,

N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found for angle point,

N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found for angle point, and

N 01°30'08" E 340.55 feet to a 4" pipe fence corner post found in the south line of the previously mentioned Ameritrust Texas 592.30 acre tract and north line of the Vesper 1279.69 acre tract for the northeast corner of the Pierce 504.13 acre tract and exterior west corner of this description;

THENCE leaving the Pierce 504.13 acre tract with the common north line of the Vesper 1279.69 acre tract, and south line of the Ameritrust Texas 592.30 acre tract, as fenced and used, the following six courses:

N 73°32'00" E 130.18 feet to a 4" pipe fence post found for angle point,

S 48°36'36" E 170.02 feet to a 1/2" iron rod found for angle point,

S 76°17'07" E 88.03 feet to a 4" pipe fence post found for angle point,

S 86°44'44" E 798.24 feet to a 4" pipe fence post found for angle point,

S 86°55'19" E 913.16 feet to a 4" pipe fence post found for angle point, and

S 86°56'50" E 421.51 feet to a 1/2" iron rod found for the southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract;

THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:

N 00°00'32" E 1999.62 feet to a 1/2" iron rod found for angle point, and

N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey".

SECTION \_\_\_\_\_.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION \_\_\_\_\_.04. This article 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, this article takes effect September 1, 2007.

(2) Renumber the internal cross references to Section \_\_.02 in Section 8269.005, Special District Local Laws Code, as added by this article appropriately.

Amendment No. 10 was adopted.

**Amendment No. 11**

Representative Anderson offered the following amendment to **SB 3**:

Amend **SB 3** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 430.003, Local Government Code, is amended to read as follows:

Sec. 430.003. EXEMPTIONS OF CERTAIN [~~STATE~~] PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or or [~~of~~] facilities for the control of excess water or storm water.

Amendment No. 11 was adopted.

**Amendment No. 12**

Representative T. King offered the following amendment to **SB 3**:

Amend **SB 3** on third reading in ARTICLE 2 of the bill, as amended by Floor Amendment No. 60 by Gonzales, by striking the SECTION of the bill that adds Section 43.0741, Local Government Code, as added by Floor Amendment No. 61 by Flores to Amendment No. 60.

A record vote was requested.

Amendment No. 12 failed of adoption (not receiving the necessary two-thirds vote) by (Record 1664): 78 Yeas, 55 Nays, 2 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, F.; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Delisi; Driver; Eissler; Elkins; Flynn; Frost; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Isett; Jackson; Jones; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; Merritt; Miller; Murphy; Naishtat; Parker; Patrick; Paxton; Pickett; Pitts; Quintanilla; Raymond; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; West; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Branch; Burnam; Callegari; Chavez; Cohen; Creighton; Davis, J.; Davis, Y.; Deshotel; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Flores; Garcia; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hernandez; Hill; Homer; Howard, D.; King, P.; King, S.; Mallory Caraway; McClendon; McReynolds; Menendez; Miles; Morrison; Noriega; Oliveira; Olivo; Orr; Ortiz; Peña; Phillips; Pierson; Puente; Rodriguez; Rose; Strama; Straus; Thompson; Turner; Villarreal; Vo.

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

Absent, Excused — Castro.

Absent — Brown, B.; Chisum; Coleman; Dukes; Dunnam; Gallego; Giddings; Haggerty; Hughes; Keffer; Moreno; O'Day; Solomons; Zerwas.

**STATEMENT OF VOTE**

When Record No. 1664 was taken, my vote failed to register. I would have voted yes.

Gallego

**Amendment No. 13**

Representative Isett offered the following amendment to **SB 3**:

Amend **SB 3** on third reading as amended by Amendment No. 31 by Isett by striking the subdivision of SECTION 3.02 of the bill that designates Lake 08 reservoir as a unique reservoir site and renumbering subsequent subdivisions of the SECTION accordingly.

Amendment No. 13 was adopted.

A record vote was requested.

**SB 3**, as amended, was passed by (Record 1665): 133 Yeas, 8 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Chavez; Chisum; Cohen; Cook, R.; Corte; Crabb; Creighton; 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; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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; Strama; Straus; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anchia; Branch; Christian; Harper-Brown; Hartnett; Mallory Caraway; Solomons; Swinford.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Callegari; Coleman; Cook, B.; Crownover; Giddings; Jones; Veasey.

**STATEMENTS OF VOTE**

When Record No. 1665 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1665 was taken, I was temporarily out of the house chamber. I would have voted yes.

Giddings

I was shown voting yes on Record No. 1665. I intended to vote no.

Hodge

I was shown voting yes on Record No. 1665. I intended to vote no.

Vaught

(Taylor in the chair)

**SB 1846 ON THIRD READING  
(Truitt - House Sponsor)**

**SB 1846**, A bill to be entitled An Act relating to funding for, and benefits provided under, the Teacher Retirement System of Texas.

A record vote was requested.

**SB 1846** was passed by (Record 1666): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; 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 Tourelles; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor(C); Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vó; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Castro.

Absent — Crownover; Quintanilla.

**STATEMENTS OF VOTE**

When Record No. 1666 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1666 was taken, I was in the house but away from my desk. I would have voted yes.

Quintanilla

**SB 1604 ON THIRD READING  
(Bonnen - House Sponsor)**

**SB 1604**, A bill to be entitled An Act relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.

A record vote was requested.

**SB 1604** was passed by (Record 1667): 142 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; 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; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; 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; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Nays — Dutton; Herrero; Leibowitz.

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

Absent, Excused — Castro.

Absent — Olivo; Villarreal.

**SB 2031 ON THIRD READING  
(Chisum - House Sponsor)**

**SB 2031**, A bill to be entitled An Act relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

Representative Chisum moved to postpone consideration of **SB 2031** until 6:40 p.m. today.

The motion prevailed.

(Speaker in the chair)

**SB 1908 ON THIRD READING  
(Menendez - House Sponsor)**

**SB 1908**, A bill to be entitled An Act relating to affordable housing.

(Branch in the chair)

**Amendment No. 1**

Representatives Menendez and Villarreal offered the following amendment to **SB 1908**:

New Sections \_\_\_ A, \_\_\_ B, and \_\_\_ C are added to **SB 1908** as follows:

SECTION \_\_\_ A. Section 23.012, Tax Code, is amended to read as follows:

§ 23.012. INCOME METHOD OF APPRAISAL. (a) If the income method of appraisal is the most appropriate method to use to determine the market value of real property, the chief appraiser shall:

(1) analyze comparable rental data available to the chief appraiser or the potential earnings capacity of the property, or both, to estimate the gross income potential of the property;

(2) analyze comparable operating expense data available to the chief appraiser to estimate the operating expenses of the property;

(3) analyze comparable data available to the chief appraiser to estimate rates of capitalization or rates of discount; and

(4) base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence.

(b) In developing income and expense statements and cash-flow projections, the chief appraiser shall consider:

(1) historical information and trends;

(2) current supply and demand factors affecting those trends; and

(3) anticipated events such as competition from other similar properties under construction.

(c) If the property to be appraised is rent-restricted, the income approach is determined by the net operating income. The "net operating income" means the income from property less the expenses incurred that are specific to the property, using generally accepted accounting principles and include compliance monitoring fees and operating and replacement reserves. The property owner must make available to the chief appraiser end of the year financial statements and rent rolls for the property as requested by the chief appraiser to determine the actual net operating income.

SECTION \_\_\_\_ B. Section 23.215, Tax Code, is amended to read as follows:

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section applies only to real property ~~owned by an organization~~:

(1) that is ~~[on the effective date of this section was]~~ rented to a low-income or moderate-income individual or family satisfying the ~~[organization's]~~ income eligibility requirements of the owner of the property ~~[and that continues to be used for that purpose]~~;

(2) that was financed under the low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code;

(3) that does not receive an exemption under Section 11.182 or 11.1825; and

(4) the owner of which has not entered into an agreement with any taxing unit to make payments to the taxing unit instead of taxes on the property.

(b) The chief appraiser shall appraise the in the manner provided by Section 11.1825(q).

(c) If the construction or rehabilitation of the housing project on the property has not been completed, the chief appraiser shall determine the appraised value of the property by:

(1) using the cost method of appraisal under Section 23.011, except that the chief appraiser shall consider only restrictions placed on the land for the affordability of the units constructed on the land and data pertaining to the cost of the land on which the housing project is located and may not consider data pertaining to the cost of any structure located on the land; or

(2) using the income method of appraisal as provided by Section 23.012, except that the chief appraiser shall multiply the appraised value of the property as determined under that section by the percentage of completion of the construction or rehabilitation of the structures comprising the housing project as determined by the architect or lender for the project.

(d) If the construction or rehabilitation of the housing project on the property has been completed, the chief appraiser shall determine the appraised value of the property by using the income method of appraisal as provided by Section 23.012.

(e) In determining the appraised value of property that qualifies for an exemption under this section using the income method of appraisal the chief appraiser shall:

(1) consider the restrictions on the income of the individuals or families to whom the dwelling units of the housing project may be rented and the amount of rent that may be charged for purposes of computing the net operating income from the property; and

(2) use the projected net operating income from the property for the first year of operation of the housing project as estimated by a property appraisal provided to the chief appraiser by the property owner if the property is appraised under Subsection (c)(1) or use the actual net operating income from the property if the property is appraised under Subsection (c)(2).

SECTION \_\_\_\_ C. Section 11.1825, Tax Code, is amended by amending Subsections (q) and (r) and adding Subsections (q-1), (q-2), and (q-3) to read as follows:

(q) If property qualifies for an exemption under this section, the chief appraiser shall appraise the property in the manner provided by Subsection (q-1) or (q-2), as applicable.

(q-1) If the construction or rehabilitation of the housing project on the property has not been completed, the chief appraiser shall determine the appraised value of the property by:

(1) using the cost method of appraisal under Section 23.011, except that the chief appraiser shall consider only restrictions placed on the land for the affordability of the units constructed on the land and data pertaining to the cost of the land on which the housing project is located and may not consider data pertaining to the cost of any structure located on the land; or

(2) using ~~use~~ the income method of appraisal as provided by Section 23.012, except that the chief appraiser shall multiply the appraised value of the property as determined under that section by the percentage of completion of the construction or rehabilitation of the structures comprising the housing project as determined by the architect or lender for the project.

(q-2) If the construction or rehabilitation of the housing project on the property has been completed, the chief appraiser shall determine the appraised value of the property by using the income method of appraisal as provided by Section 23.012.

(q-3) In determining the appraised value of property that qualifies for an exemption under this section using the income method of appraisal ~~to determine the appraised value of the property. In appraising the property~~, the chief appraiser shall:

(1) consider the restrictions provided by this section on the income of the individuals or families to whom the dwelling units of the housing project may be rented and the amount of rent that may be charged for purposes of computing the net operating [~~actual rental~~] income from the property [~~or projecting future rental income~~]; ~~and~~

(2) use the projected net operating income from the property for the first year of operation of the housing project as estimated by a property appraisal provided to the chief appraiser by the property owner if the property is appraised under Subsection (q-1)(2) or use the actual net operating income from the property if the property is appraised under Subsection (q-2);

(3) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties; and

(4) consider expenses in the manner provided for in Section 11.182(a)(1).

(r) For purposes of this section, "net operating income" means the income from property less the expenses incurred that are specific to the property, using generally accepted accounting principles and include compliance monitoring fees and operating and replacement reserves. The property owner must make available to the chief appraiser end of the year financial statements and rent rolls for the property as requested by the chief appraiser to determine the actual net operating income . Not later than January 31 of each year, the appraisal district shall give public notice in the manner determined by the district, including posting on the district's website if applicable, of the capitalization rate to be used in that year to appraise property receiving an exemption under this section.

A record vote was requested.

Amendment No. 1 failed of adoption by (Record 1668): 64 Yeas, 70 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Bolton; Brown, F.; Burnam; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Darby; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farias; Farrar; Frost; Garcia; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Hardcastle; Hernandez; Hochberg; Homer; Hopson; Howard, D.; Jones; Keffer; Lucio; Mallory Caraway; Martinez Fischer; McReynolds; Menendez; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Strama; Straus; Swinford; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Nays — Aycock; Berman; Bohac; Bonnen; Brown, B.; Callegari; Chisum; Christian; Corte; Crabb; Creighton; Crownover; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Flynn; Gallego; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Heflin; Hilderbran; Hill; Hodge; Howard, C.; Hughes; Isett; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Martinez; McCall; Merritt; Miles; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Smith, T.; Smith, W.; Smithee; Solomons; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Castro.

Absent — Allen; Bailey; Flores; Gattis; Geren; Gonzales; Herrero; Jackson; Kolkhorst; Leibowitz; McClendon; Moreno.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 1668. I intended to vote no.

Anderson

**Amendment No. 2**

Representative Swinford offered the following amendment to **SB 1908**:

Amend **SB 1908** by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ Section 11.182, Tax Code, is amended by amending Subsections (b), (e), and (h) to read as follows:

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns or controls if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family or owns or controls 100 percent of:

(A) the general partner interest of the limited partnership that owns the property, if applicable; or

(B) the entity that owns the property, if applicable; and

(4) engages ~~exclusively~~ in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that is ~~includes a housing project constructed after December 31, 2001, and~~ financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits, the organization must:

(1) ~~control 100 percent of the interest in the general partner if the project is owned by a limited partnership;~~

~~(2)~~ comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

(2) ~~(3)~~ submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction.

(h) Subsections (d) and (e)(2) ~~(e)(3)~~ do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(2) [~~(e)(3)~~] an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

Amendment No. 2 was adopted.

(Speaker in the chair)

### **Amendment No. 3**

Representative Thompson offered the following amendment to **SB 1908**:

Amend **SB 1908** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION \_\_\_\_\_. Subsection (a), Section 379D.010, Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions with appropriate terms and conditions on property sold to qualified participating developers and eligible adjacent property owners that require:

(1) the development and sale or rental of the property to low income households, if the property is sold to a qualified participating developer; or

(2) the use of the property to be consistent and compatible with the residential character of the neighborhood and any applicable standards for use adopted by the land bank, if the property is sold to an eligible adjacent property owner.

SECTION \_\_\_\_\_. Section 379D.011, Local Government Code, is amended to read as follows:

Sec. 379D.011. RIGHT OF FIRST REFUSAL IN ELIGIBLE ADJACENT PROPERTY OWNERS; CONDITIONS OF PURCHASE. (a) Property acquired by the land bank shall be offered for sale, at fair market value as determined by the appraisal district in which the property is located, to eligible adjacent property owners under a right of first refusal on terms and conditions developed by the land bank that are consistent with this chapter.

(b) To be eligible to exercise a right of first refusal under this section, an owner of property adjacent to property acquired by the land bank:

(1) must have owned and continuously occupied that property for at least the five preceding years as that person's principal residence; and

(2) must meet any eligibility requirements adopted by the land bank.

(c) An adjacent property owner who purchases property under this section may not lease, sell, or otherwise transfer the property to another party before the 10th anniversary of the date the adjacent property owner purchases the property. This prohibition does not apply to a transfer of property, as allowed by policies adopted by the land bank:

(1) to a family member of the adjacent property owner; or

(2) in the case of the death of the adjacent property owner.

SECTION \_\_\_\_\_. Chapter 379D, Local Government Code, is amended by adding Section 379D.015 to read as follows:

Sec. 379D.015. EFFECT OF SALE TO LAND BANK OR SUBSEQUENT PURCHASERS OR LENDERS FOR VALUE; LIMITATION ON CERTAIN CAUSES OF ACTION. After the first anniversary of a sale of property to a land bank under this chapter:

(1) a third party, other than a qualified participating developer or eligible adjacent property owner who purchased the property from the land bank under this chapter or a person with a cause of action based on a right, title, interest, or other claim described by Subdivision (2)(A)(ii), may not bring a cause of action to set aside or otherwise challenge the sale of the property to the land bank, including a cause of action that is brought against:

(A) a qualified participating developer or eligible adjacent property owner who purchases property from the land bank under Section 379D.009 or 379D.011, as applicable; or

(B) any other subsequent purchaser for value or lender for value;  
and

(2) a qualified participating developer or eligible adjacent property owner who purchases property from a land bank under this chapter or any other subsequent purchaser for value or, if applicable, a lender for a developer, owner, or purchaser described by this subdivision or any other subsequent lender for value:

(A) has, with the following characteristics, a full title to the property:

(i) except as provided by Subparagraph (ii), the title is not subject to any right, title, interest, or other claim a person acquired in the property before or after the sale of the property to the land bank, including a right of first refusal, right of second refusal, and any other right, title, interest, or other claim provided by this chapter, other than the right of reverter provided by Section 379D.009(d); and

(ii) the title is subject only to:  
(a) the recorded restrictive covenants, liens, and valid easements of record described by Section 34.01(n), Tax Code;

(b) any rights of redemption applicable to the property;  
(c) any cause of action to impeach the property deed based on a claim of fraud;

(d) the right of reverter provided by Section 379D.009(d) and the recorded deed restrictions described by Section 379D.010; and

(e) any right, title, interest, or other claim with respect to the property that arose after the sale of the property to the land bank under a law other than this chapter; and

(B) may conclusively presume that:  
(i) the sale of the property to the land bank under this chapter was valid; and

(ii) a mortgage on or a subsequent sale of the property complies with this chapter and is subject only to a right, title, interest, or other claim provided by Paragraph (A)(ii).

SECTION \_\_\_\_. Section 379D.015, Local Government Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act and concerns property that is first purchased by a land bank under Section 379D.015, Local Government Code, on or after the effective date of this Act.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Mallory Caraway offered the following amendment to **SB 1908**:

Amend **SB 1908** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 214.003, Local Government Code, is amended by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p) and adding Subsection (h-1) to read as follows:

(a) A home-rule municipality may bring an action in district court against an owner of [~~residential~~] property that is not in substantial compliance with the municipal ordinances regarding:

- (1) fire protection;
- (2) structural integrity;
- (3) zoning; or
- (4) disposal of refuse.

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization with a demonstrated record of rehabilitating [~~residential~~] properties if the court finds that:

(1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);

(2) notice of violation was given to the record owner of the property; and

(3) a public hearing as required by Section 214.001(d) has been conducted.

(h) On the completion of the restoration of [~~to~~] the property to [~~of~~] the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (l):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, [~~and~~] all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds [~~exceed~~] the income received during the receivership, the receiver may [~~shall~~] maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(k) The court may not appoint a receiver for any property that[-

~~(1) is an owner-occupied, single-family residence[-or~~

~~(2) is zoned nonresidential and used in a nonresidential character].~~

(l) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property[-

~~(1) if the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search; or~~  
 (2) after the receiver has been in control of the property for more than one year ~~[three years]~~, if an owner has been ~~[identified and]~~ served with notice ~~[notices]~~ but has failed to assume control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.

(n) The court ~~may order the sale of the property~~ if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year ~~[two years and no legal owner has been identified after a diligent search, or the receiver has been in control of the property for more than three years]~~ and an owner has ~~[been identified but has]~~ failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

(3) no lienholder of record has intervened in the action and offered to repay the costs and any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses of the receiver, and any lien held by the receiver;  
 and

(3) other valid liens.

SECTION \_\_\_\_\_. The changes in law made by this Act to Section 214.003, Local Government Code, apply only to a receivership established on or after the effective date of this Act. A receivership established before the effective date of this Act is governed by the law in effect when the receivership was established, and the former law is continued in effect for that purpose.

Amendment No. 4 was adopted.

A record vote was requested.

**SB 1908**, as amended, was passed by (Record 1669): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; 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; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Castro.

Absent — Aycock; Hodge; Moreno; Mowery; Turner.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1669. I intended to vote no.

Harper-Brown

### SB 1951 ON THIRD READING

(Hartnett, R. Cook, Kolkhorst, Oliveira, and Escobar - House Sponsors)

**SB 1951**, A bill to be entitled An Act relating to the creation of judicial districts, the creation of the office of district attorney in certain counties, and the election and duties of certain district attorneys in certain counties.

#### Amendment No. 1

Representative Rose offered the following amendment to **SB 1951**:

Amend **SB 1951** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.707 to read as follows:

Sec. 51.707. ADDITIONAL FILING FEE FOR CIVIL CASES IN HAYS COUNTY. (a) This section applies only to district courts, probate courts, county courts at law, and justice courts in Hays County.

(b) Except as otherwise provided by this section and in addition to all other fees authorized or required by other law, the clerk of a court shall collect a filing fee of not more than \$15 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the Hays County civil courts.

(c) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer at least as frequently as monthly. The treasurer or other official shall deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

(e) This section applies only to fees for a 12-month period beginning July 1, if the commissioners court:

(1) adopts a resolution authorizing a fee of not more than \$15;

(2) adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the court facilities for each dollar spent from the special account dedicated to that purpose; and

(3) files the resolutions with the county treasurer or with any other official who discharges the duties commonly assigned to the county treasurer not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution adopted under Subsection (e) continues from year to year until July 1, 2022, allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) The commissioners court may rescind a resolution adopted under Subsection (e) by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer not later than June 1 preceding the beginning of the first day of the county fiscal year. The commissioners court may adopt an additional resolution in the manner provided by Subsection (e) after rescinding a previous resolution under that subsection.

(h) A fee established under a particular resolution is abolished on the earlier of:

(1) the date a resolution adopted under Subsection (e) is rescinded as provided by Subsection (g); or

(2) July 1, 2022.

(i) The county may make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

(b) Section 101.061, Government Code, is amended to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a district court shall collect fees and costs as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed \$20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(4) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(5) additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed \$5;

(B) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50;

(C) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$10; and

(E) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

~~(6) for filing a suit, including an appeal from an inferior court:~~

~~(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . \$50;~~

~~(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;~~

~~(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;~~

~~(D) for a suit with at least 101 but not more than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;~~

~~(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or~~

~~(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$200;~~

~~(7) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . \$15;~~

~~(8) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . \$8;~~

~~(9) for records management and preservation (Sec. 51.317, Government Code) . . . \$10;~~

~~(10) for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . \$8;~~

~~(11) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . \$8;~~

~~(12) for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . \$5;~~

(13) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . \$5;

(14) for abstracting a judgment (Sec. 51.318, Government Code) . . . \$8;

(15) for approving a bond (Sec. 51.318, Government Code) . . . \$4;

(16) for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . \$1;

(17) for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed \$1;

(18) jury fee (Sec. 51.604, Government Code) . . . \$30;

(19) for filing a report of divorce or annulment (Sec. 194.002, Health and Safety Code) . . . \$1;

(20) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed \$30;

(22) fee on filing a suit for dissolution of a marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed \$12;

(22-a) a child support service fee in Nueces County if ordered by the commissioners court and assessed by the court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$5 a month payable annually in advance;

(22-b) a service fee to be paid by a person ordered by a district court to pay child or spousal support:

(A) in Collin County if authorized by the juvenile board (Sec. 152.0492, Human Resources Code) . . . not to exceed \$2.50 added to first support payment each month;

(B) in Johnson County if authorized by the juvenile board (Sec. 152.1322, Human Resources Code) . . . \$1.00 added to first support payment each month; and

(C) in Montague County (Sec. 152.1752, Human Resources Code) . . . \$1 if fee is ordered to be paid monthly, 50 cents if fee is ordered to be paid semimonthly or weekly;

(22-c) attorney's fees as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department (Sec. 152.1752, Human Resources Code) . . . \$15;

(23) fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;

(24) court cost on citation for contempt of court for failure to comply with child support order in Nueces County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$10;

(25) fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than \$5;

(26) court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(27) fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than \$25;

(28) fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

(29) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(30) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(31) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(32) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge;

(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge;

(36) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(37) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(38) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;  
 (B) postage; and  
 (C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(39) fee for performing a service:

(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;

(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;

(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and

(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

(40) court costs, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination (Sec. 544.054, Insurance Code) . . . court costs and reasonable and necessary expert witness fees;

(41) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(42) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding; and

(43) fee for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year (Sec. 42.221, Tax Code) . . . \$5.

(c) Section 101.081, Government Code, is amended to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The clerk of a statutory county court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(3) an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . \$3;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . \$20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . \$25;

(6) jury fee (Sec. 51.604, Government Code) . . . \$22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . \$40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(D) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(8) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(9) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(10) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(11) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(12) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(13) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(14) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(15) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;

(16) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(17) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(18) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(19) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(20) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(21) court cost for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, \$10 or more;

(22) fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . \$10;

(23) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(24) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(25) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and  
 (C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(26) the official court reporter's fee taxed as costs in civil actions in a statutory county court:

(A) in Bexar County Courts at Law:

(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and

(ii) No. 2 (Sec. 25.0172, Government Code) . . . \$3;

(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and

(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;

(27) a stenographer's fee as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . \$25;

(28) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;

(29) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases;

(30) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(31) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;

(32) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

- (A) attorneys;
- (B) physicians;
- (C) language interpreters;
- (D) sign interpreters; and
- (E) masters;

(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

- (A) attorney's fees;
- (B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed \$50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(36) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50;

(37) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;

(38) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50; and

(39) a fee not otherwise listed in this section that is required to be collected under Section 25.0008, Government Code (Sec. 25.0008, Government Code), in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees.

(d) Section 101.101, Government Code, is amended to read as follows:

Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS. The clerk of a statutory probate court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(3) additional filing fees as follows:

(A) for certain cases to be used for court-related purposes for support of the judiciary, if authorized by the county commissioners court (Sec. 51.704, Government Code) . . . \$40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(D) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code). . . not more than \$15;

(4) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(5) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(6) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(7) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(8) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(9) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

(10) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(11) court costs for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, \$10 or more;

(12) jury fee for civil case (Sec. 51.604, Government Code) . . . \$22;

(13) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(14) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost;

(15) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(16) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;

(17) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

- (A) attorneys;
- (B) physicians;
- (C) language interpreters;
- (D) sign interpreters; and
- (E) masters;

(18) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

- (A) attorney's fees;
- (B) physician examination fees;
- (C) expense of transportation to a mental health facility or to a federal agency not to exceed \$50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;
- (D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and
- (E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(19) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(20) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(21) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50;

(22) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;

(23) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50; and

(24) a fee not otherwise listed in this section that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . as prescribed by law relating to county judges' fees.

(e) Section 101.141, Government Code, is amended to read as follows:

Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND COSTS. (a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed \$3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$2; and

(C) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . \$20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

(b) A justice of the peace shall collect the following fees:

(1) services rendered before judgment (Secs. 118.121 and 118.122, Local Government Code):

(A) justice court (Sec. 118.121, Local Government Code) . . . \$15; and

(B) small claims court (Sec. 118.121, Local Government Code) . . . \$10;

(2) services rendered after judgment (Secs. 118.121 and 118.123, Local Government Code):

(A) transcript (Sec. 118.121, Local Government Code) . . . \$10;

(B) abstract of judgment (Sec. 118.121, Local Government Code) . . . \$5;

(C) execution, order of sale, writ of restitution, or other writ or process (Sec. 118.121, Local Government Code) . . . \$5 per page;

(D) certified copy of court papers (Secs. 118.121 and 118.1235, Local Government Code) . . . \$2 for first page; \$0.25 for each additional page; and

(E) issuing other document (no return required) (Sec. 118.121, Local Government Code) . . . \$1 for first page; \$0.25 for each additional page;

(3) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(4) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(5) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Guillen offered the following amendment to **SB 1951**:

Amend **SB 1951** (house committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 152.0721, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The Duval County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Duval County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

SECTION \_\_\_\_\_. Subchapter D, Chapter 152, Human Resources Code, is amended by adding Section 152.1301 to read as follows:

Sec. 152.1301. JIM HOGG COUNTY. (a) The Jim Hogg County Juvenile Board is composed of the county judge, the district judge in Jim Hogg County, and a citizen of Jim Hogg County appointed by the county judge and the district judge. The citizen member of the board serves the same term of office as the district judge in Jim Hogg County.

(b) The district judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than \$1,200 or more than \$3,600 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall appoint not more than five persons to serve on an advisory council.

(e) The Jim Hogg County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Jim Hogg County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board.

SECTION \_\_\_\_\_. Section 152.2201, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The Starr County Juvenile Board is composed of the county judge, the judge of the county court at law in Starr County, and the district judges in Starr County.

(f) The Starr County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Starr County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

SECTION \_\_\_\_\_. The Jim Hogg County Juvenile Board is created on the effective date of this Act.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Hughes offered the following amendment to **SB 1951**:

Amend **SB 1951** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 53.001, Government Code, is amended by adding Subsection (j) to read as follows:

(j) The judge of the 115th District Court shall appoint a bailiff to serve the court only in Upshur County.

SECTION \_\_\_\_\_. Section 53.004, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A bailiff appointed by the judge of the 115th District Court to serve the court in Upshur County must be:

(1) a resident of that county; and

(2) at least 18 years of age.

SECTION           . Sections 53.007 (a) and (b), Government Code, are amended to read as follows:

(a) This section applies to:

(1) the 22nd, 34th, 70th, 71st, 86th, 97th, 142nd, 161st, 238th, 318th, 341st, 355th, and 385th district courts;

(2) the County Court of Harrison County;

(3) the criminal district courts of Tarrant County;

(4) the district courts in Taylor County;

(5) the courts described in Section 53.002(c), (d), (e), or (f);

(6) the county courts at law of Taylor County; ~~and~~

(7) the district courts in Tarrant County that give preference to criminal cases; and

          (8) the 115th District Court in Upshur County.

(b) On the request of the judge of a court to which this section applies other than the 115th District Court, the sheriff of each county in which the court sits shall deputize the bailiff or grand jury bailiff appointed under this subchapter of that court, in addition to other deputies authorized by law. On the request of the judge of the 115th District Court, the sheriff of Upshur County shall deputize the bailiff appointed by that judge under Section 53.001(j), in addition to other deputies authorized by law.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

On behalf of Representative Chisum, Representative Bonnen offered the following amendment to **SB 1951**:

Amend **SB 1951** on third reading in the SECTION of the bill added by floor amendment no. 1 by Chisum as follows:

(1) In added Subsection (b), Section 24.6051, Government Code, strike "statutory" and substitute "constitutional".

          (2) Strike Subsection (c) of that SECTION of the bill.

Amendment No. 4 was adopted.

A record vote was requested.

**SB 1951**, as amended, was passed by (Record 1670): 142 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; 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; Moreno; 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; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Dutton; Talton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Flores; Gallego; Hochberg; Turner.

### STATEMENT OF VOTE

When Record No. 1670 was taken, my vote failed to register. I would have voted yes.

Gallego

### SB 228 - VOTE RECONSIDERED

Representative Eiland moved to reconsider the vote by which **SB 228**, as amended, was passed.

The motion to reconsider prevailed.

### SB 228 ON THIRD READING (Eiland - House Sponsor)

**SB 228**, A bill to be entitled An Act relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support; providing a civil penalty.

#### Amendment No. 7

Representative Phillips offered the following amendment to **SB 228**:

Amend **SB 228** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Section 154.062, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In calculating expenses for health insurance coverage for an obligor's child under Subsection (d)(5), if the obligor has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligor for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION \_\_\_\_\_. Section 154.125, Family Code, is amended to read as follows:

Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES ~~[OF \$6,000 OR LESS]~~. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater [ \$6,000 or less ].

(a-1) The dollar amount prescribed by Subsection (a) is adjusted every ten years as necessary to reflect inflation. The Title IV-D agency shall compute the adjusted amount, to take effect beginning September 1 of the year of the adjustment, based on the percentage change during the preceding ten-year period in the consumer price index, as rounded to the nearest \$50 increment. The Title IV-D agency shall publish the adjusted amount in the Texas Register before

September 1 of the year in which the adjustment takes effect. For purposes of this subsection, "consumer price index" has the meaning assigned by Section 341.201, Finance Code.

(a-2) The initial adjustment required by Subsection (a-1) shall take effect September 1, 2017. This subsection expires September 1, 2018.

(b) If the obligor's monthly net resources are not greater than the amount provided by Subsection (a) [~~\$6,000 or less~~], the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

- 1 child 20% of Obligor's Net Resources
- 2 children 25% of Obligor's Net Resources
- 3 children 30% of Obligor's Net Resources
- 4 children 35% of Obligor's Net Resources
- 5 children 40% of Obligor's Net Resources
- 6+ children Not less than the amount for 5 children

SECTION \_\_\_\_\_. Section 154.126, Family Code, is amended to read as follows:

Sec. 154.126. APPLICATION OF GUIDELINES TO ADDITIONAL NET RESOURCES [~~OF MORE THAN \$6,000 MONTHLY~~]. (a) If the obligor's net resources exceed the amount provided by Section 154.125(a) [~~\$6,000 per month~~], the court shall presumptively apply the percentage guidelines to the portion [~~first \$6,000~~] of the obligor's net resources that does not exceed that amount. Without further reference to the percentage recommended by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.

(b) The proper calculation of a child support order that exceeds the presumptive amount established for the portion [~~first \$6,000~~] of the obligor's net resources provided by Section 154.125(a) requires that the entire amount of the presumptive award be subtracted from the proven total needs of the child. After the presumptive award is subtracted, the court shall allocate between the parties the responsibility to meet the additional needs of the child according to the circumstances of the parties. However, in no event may the obligor be required to pay more child support than the greater of the presumptive amount or the amount equal to 100 percent of the proven needs of the child.

SECTION \_\_\_\_\_. Section 154.130(b), Family Code, is amended to read as follows:

(b) If findings are required by this section, the court shall state whether the application of the guidelines would be unjust or inappropriate and shall state the following in the child support order:

- "(1) the monthly net resources of the obligor per month are \$ \_\_\_\_;
- "(2) the monthly net resources of the obligee per month are \$ \_\_\_\_;
- "(3) the percentage applied to the obligor's net resources for child support by the actual order rendered by the court is \_\_\_\_%;
- "(4) the amount of child support if the percentage guidelines are applied to the portion [~~first \$6,000~~] of the obligor's net resources that does not exceed the amount provided by Section 154.125(a), Family Code, is \$ \_\_\_\_;
- "(5) if applicable, the specific reasons that the amount of child support per month ordered by the court varies from the amount stated in Subdivision (4) are: \_\_\_\_; and

"(6) if applicable, the obligor is obligated to support children in more than one household, and:

"(A) the number of children before the court is \_\_\_\_;

"(B) the number of children not before the court residing in the same household with the obligor is \_\_\_\_; and

"(C) the number of children not before the court for whom the obligor is obligated by a court order to pay support, without regard to whether the obligor is delinquent in child support payments, and who are not counted under Paragraph (A) or (B) is \_\_\_\_."

SECTION \_\_\_\_\_. Section 154.182, Family Code, is amended by adding Subsection (d) to read as follows:

(d) In calculating the additional child support to be withheld under Subsection (b)(2), if the obligee has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION \_\_\_\_\_. Subsection (b), Section 154.183, Family Code, is amended to read as follows:

(b) If the court finds and states in the child support order that the obligee will maintain health insurance coverage for the child at the obligee's expense, the court may increase the amount of child support to be paid by the obligor in an amount not exceeding the total expense to the obligee for maintaining health insurance coverage. In calculating the total expense to the obligee for maintaining health insurance for the child under this subsection, if the obligee has other minor dependents covered under the same health insurance plan, the court shall divide the total expense to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION \_\_\_\_\_. The changes in law made by this Act to Chapter 154, Family Code, relating to the calculation of a child support obligation apply only to a proceeding to establish or modify a child support obligation that is pending in a trial court on, or filed on or after, the effective date of this Act.

Amendment No. 7 was adopted.

### **Amendment No. 8**

Representative Dutton offered the following amendment to **SB 228**:

Amend **SB 228** on Third Reading by adding new appropriately numbered SECTIONS to read as follows:

SECTION \_\_\_\_\_. Section 102.008, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The petition must include:

(1) a statement that the court in which the petition is filed has continuing, exclusive jurisdiction or that no court has continuing jurisdiction of the suit;

(2) the name and date of birth of the child, except that if adoption of a child is requested, the name of the child may be omitted;

(3) the full name of the petitioner and the petitioner's relationship to the child or the fact that no relationship exists;

(4) the names of the parents, except in a suit in which adoption is requested;

(5) the name of the managing conservator, if any, or the child's custodian, if any, appointed by order of a court of another state or country;

(6) the names of the guardians of the person and estate of the child, if any;

(7) the names of possessory conservators or other persons, if any, having possession of or access to the child under an order of the court;

(8) the name of an alleged father of the child or a statement that the identity of the father of the child is unknown;

(9) a full description and statement of value of all property owned or possessed by the child;

(10) a statement describing what action the court is requested to take concerning the child and the statutory grounds on which the request is made; ~~and~~

(11) notice to an alleged or presumed father of the child, if any, of the right to request paternity testing; and

(12) any other information required by this title.

(c) The notice described by Subsection (b)(11) must include the following statement printed in boldfaced type, in capital letters, or underlined:

"YOU HAVE THE RIGHT TO REQUEST GENETIC TESTING TO DETERMINE THE PARENTAGE OF THE CHILD NAMED IN THIS SUIT. YOUR REQUEST FOR GENETIC TESTING MUST BE IN WRITING AND FILED WITH THE CLERK OF THE COURT IN WHICH THIS SUIT IS FILED. ANY ALLEGED OR PRESUMED FATHER WHO DOES NOT REQUEST GENETIC TESTING SHALL BE BARRED FROM BRINGING AN ACTION TO VACATE A CHILD SUPPORT ORDER OR A PARENTAGE ORDER."

SECTION \_\_\_\_\_. Chapter 105, Family Code, is amended by adding a new Section 105.0035 to read as follows:

Sec. 105.0035. PATERNITY TESTING. (a) Except as provided in this section, a court may not render an order in a suit unless the court finds that:

(1) based on court-ordered genetic testing which complies with Section 160.503, the man alleged to be the father of the child made the subject of the suit is rebuttably identified as the father of the child in accordance with Section 160.505(a);

(2) the party ordered to pay child support is an adoptive parent of the child;

(3) if the man is married to the mother of the child, the man:

(A) filed an affidavit acknowledging that he has received the notice required by Section 102.008 (b) (11) and does not dispute the presumption provided by Section 160.204;

(B) is duly served with notice of the suit, including the notice required by Section 102.008 (b) (11), and fails to answer and wholly makes default; or

(C) is ordered by the court to submit to genetic testing under Chapter 160 and fails to comply with the court's order; or

(4) if the man is not married to the mother of the child, the man:

(A) filed an affidavit acknowledging that he has received the notice required by Section 102.008(b)(11) and acknowledges that he is the biological father of the child as required by Section 160.302;

(B) is duly served with notice of the suit, including the notice required by 102.008(b)(11), and fails to answer and wholly makes default; or

(C) is ordered by the court to submit to genetic testing under Chapter 160 and fails to comply with the court's order.

(b) If a man fails to file an affidavit required by Subsection (a)(3)(A) or (a)(4)(A), or fails to submit to genetic testing ordered by the court, the court may render an order declaring the man to be the biological father of the child.

(c) A man who files an affidavit pursuant to Subsection (a)(3)(A) or (a)(4)(A), or fails to submit to genetic testing ordered by the court, may not challenge the adjudication of paternity in any subsequent proceeding under Subchapter J, Chapter 160.

(d) Payment of the cost of genetic testing under this section shall be governed by Chapter 160.

(e) Nothing in this section affects the power of a court to order temporary child support to be paid by a presumed father pending the outcome of a determination of whether the presumed father is the parent of the child.

SECTION \_\_\_\_. Chapter 160, Family Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. PROCEEDINGS TO VACATE COURT ORDER

Sec. 160.801. SUIT TO VACATE COURT ORDER. (a) A person identified in a court order as the father of a child may file a petition not later than the child's 18th birthday requesting the court to vacate a court order that:

(1) states that the person identified in the order as the father of the child is the father of the child identified in the motion; or

(2) requires the person identified in the order as the father of the child to pay child support for the child.

(b) The petition to vacate a court order must be accompanied by:

(1) an affidavit stating:

(A) facts that show the court order was obtained by fraud or material mistake of fact; or

(B) that the man was duly served with notice of the suit and failed to answer but did not receive the notice required by Section 102.008(b)(11); and

(2) a certified copy of the court order to be vacated.

(c) The court may not grant a petition to vacate a court order under this section if the person identified in the court order as the father of the child:

(1) is the child's adoptive father;

(2) consented to assisted reproduction by his wife under Subchapter H;

(3) was an intended father under a gestational agreement confirmed by a court under Subchapter I; or

(4) filed the petition under this section after the 180th day after the date the person received the results of a genetic test described by Section 160.802(b)(3).

Sec. 160.802. GENETIC TESTING. (a) In a proceeding under this subchapter, if the court finds that the affidavit filed with the petition under Section 160.801 establishes a prima facie case that the court order was obtained by fraud or material mistake of fact, the court shall order the child and the person identified in the court order as the father of the child to submit to genetic testing not later than the 30th day after the date the order requiring genetic testing is rendered.

(b) A person establishes a prima facie case that a court order was obtained by fraud or material mistake of fact if the person's affidavit states that the person:

(1) was the presumed father of the child or was induced by representations made by the child's mother to believe that the person was the child's father;

(2) at the time the court order was rendered, did not know that he was not the father of the child; and

(3) took a genetic test after the date the court order sought to be vacated was rendered that establishes that the person is not rebuttably identified as the father of the child in accordance with Section 160.505.

(c) Genetic testing under this section is governed by Subchapter F.

(d) If the affidavit filed with the petition does not establish a prima facie case, the court shall, on a motion by the respondent, dismiss the petition.

Sec. 160.803. FAILURE TO SUBMIT TO GENETIC TEST. (a) If the person who has been awarded the exclusive right to designate the child's primary residence fails to allow the child to be genetically tested under Section 160.802, the court may suspend the legal obligation of the person identified in the court order as the father of the child to pay child support until the child is genetically tested.

(b) If the person identified in the court order as the father of the child fails to submit to a genetic test ordered under Section 160.802, the court shall dismiss the person's petition to vacate with prejudice.

Sec. 160.804. GROUNDS FOR VACATING ORDER. (a) Except as otherwise provided by this section, the court shall vacate an order described by Section 160.801(a) if the court finds:

(1)(A) that the order was obtained by fraud or material mistake of fact;  
or,

(B) if the man was duly served with notice of the suit and failed to answer, that the man did not receive the notice required by Section 102.008(b)(11); and

(2) that the person identified in the court order as the father of the child:

(A) was the presumed father of the child or was induced by representations made by the child's mother to believe that the person was the child's father;

(B) at the time the order was rendered, did not know that he was not the father of the child;

(C) based on genetic testing, is not rebuttably identified as the father of the child in accordance with Section 160.505;

(D) is not the child's adoptive parent;

(E) is not the intended father of the child under a gestational agreement confirmed by a court under Subchapter I; and

(F) did not consent to assisted reproduction by his wife under Subchapter H.

(b) The court may not vacate an order under this section if the court finds that at any time the person identified in the court order as the father of the child knew that he was not the child's biological parent and:

(1) consented to his name being entered as the child's biological father on the child's birth certificate;

(2) was determined to be the child's father in a proceeding to determine parentage; or

(3) filed an acknowledgment of paternity with the bureau of vital statistics.

Sec. 160.805. POSSESSION ORDER; CHILD SUPPORT ARREARAGE.

(a) If the court vacates a parentage or child support order in a proceeding under this subchapter and the person identified in the court order as the father of the child is also entitled under an order to the possession of or access to the child who is the subject of the vacated order, the court shall determine whether the possession order should be terminated, modified, or continued based on the best interest of the child.

(b) If the court modifies or continues the possession order under Subsection (a), the person identified in the court order as the father of the child shall have the rights and duties provided by Section 153.074 during the period he has possession of the child.

(c) If the court vacates a child support order under this subchapter and an arrearage exists under that child support order, the court may reduce the amount of the arrearage to zero. If the court eliminates an arrearage under this subsection, the court shall issue an order stating that the child support obligation, including any arrearage, is terminated.

(d) The elimination of an arrearage under a child support order that is vacated as provided by this subchapter is for purposes of correcting an act induced by fraud, duress, or material mistake of fact and is not a retroactive modification.

(e) If the court vacates a parentage order in a proceeding under this subchapter, the court may order:

(1) the child or any party to participate in counseling with a licensed mental health professional who:

(A) has a background in family therapy; and

(B) holds a professional license that requires the person to possess at least a master's degree; and

(2) any party to pay the cost of counseling.

(f) If a person possessing the qualifications of Subsection (e)(1) is not available in the county in which the court presides, the court may appoint a person the court believes is qualified to conduct the counseling under Subsection (e).

Sec. 160.806. ATTORNEY'S FEES AND COURT COSTS. If the court vacates a parentage order or a child support order in a proceeding under this subchapter, the court may award reasonable attorney's fees to the petitioner. If the court does not grant the petition to vacate a parentage order or a child support order under this subchapter, the court shall order the petitioner to pay the costs of the action and each opposing party's reasonable attorney's fees.

SECTION \_\_\_\_. Section 233.028, Family Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The notice described in Subsection (a) and sent to a man alleged to be the father of a child must include the following statement printed on the notice in boldfaced type, in capital letters, or underlined:

"YOU HAVE THE RIGHT TO REQUEST GENETIC TESTING TO DETERMINE THE PARENTAGE OF A CHILD WHOSE PARENTAGE HAS NOT BEEN ESTABLISHED. THE TITLE IV-D AGENCY WILL PAY FOR THE COSTS OF THE GENETIC TESTING, BUT IF THE RESULTS OF THE TESTING IDENTIFY YOU AS THE BIOLOGICAL FATHER OF THE CHILD, YOU MAY BE REQUIRED TO REIMBURSE THE AGENCY FOR THOSE COSTS."

(b) If all parties agree to the child's parentage, the agency may file an agreed child support review order as provided by this chapter. The agreed order must include a statement signed by the parties entitled to genetic testing in the case that the parties have waived their rights to request genetic testing.

SECTION \_\_\_\_\_. (a) Section 233.028, Family Code, as amended by this Act, applies only to an administrative proceeding under Chapter 233, Family Code, for the determination of parentage commenced on or after the effective date of this Act.

(b) If before implementing any provision of this Act the Title IV-D agency determines that a waiver or authorization from a federal agency is necessary for implementation of the change in law made by this Act, the agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

(c) Except as provided by Subsection (d) of this section, Section 105.0035, Family Code, as added by this Act, and the change in law made by this Act to Section 102.008, Family Code, apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(d) In a proceeding under Subchapter J, Chapter 160, Family Code, as added by this Act, to vacate an order rendered in a suit affecting the parent-child relationship filed before the effective date of this Act, the court may not vacate the order on the ground that the alleged or presumed father did not receive the notice required by Section 102.008(b)(11), Family Code, as added by this Act.

A record vote was requested.

Amendment No. 8 failed of adoption (not receiving the necessary two-thirds vote) by (Record 1671): 75 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bohac; Bolton; Branch; Brown, F.; Burnam; Callegari; Chavez; Cohen; Corte; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Geren; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; King, S.; King, T.; Kuempel; Leibowitz; Lucio; Mallory Caraway; Martinez; McClendon; Menendez; Miles; Moreno; Mowery; Noriega; Oliveira; Olivo; Ortiz; Otto; Phillips; Pickett; Pierson; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Strama; Straus; Talton; Thompson; Vaught; Veasey; Vo; West.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Christian; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Delisi; Eissler; England; Flynn; Garcia; Goolsby; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Hughes; Isett; Jackson; Kolkhorst; Krusee; Laubenberg; Macias; Madden; Martinez Fischer; McCall; McReynolds; Merritt; Miller; Murphy; Naishtat; O'Day; Orr; Parker; Patrick; Paxton; Pitts; Riddle; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; Woolley; Zedler; Zerwas.

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

Absent, Excused — Castro.

Absent — Bailey; Chisum; Coleman; Dunnam; Gattis; Giddings; Jones; Keffer; King, P.; Latham; Morrison; Peña; Puente; Turner.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1671. I intended to vote yes.

Merritt

A record vote was requested.

**SB 228**, as amended, was passed by (Record 1672): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; 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; 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.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kruse; 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; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Brown, B.; Escobar; Hughes; Moreno; Ritter.

### POSTPONED BUSINESS

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

#### **SB 766 ON THIRD READING (Gattis - House Sponsor)**

**SB 766**, A bill to be entitled An Act relating to the transfer of powers and duties for accident reports from the Department of Public Safety of the State of Texas to the Texas Department of Transportation.

**SB 766** was read third time earlier today, an amendment was offered and disposed of, and **SB 766** was postponed until this time.

#### **Amendment No. 2**

Representative Taylor offered the following amendment to **SB 766**:

Amend **SB 766** on third reading by striking the SECTION of the bill that amends Section 550.065, Transportation Code.

Amendment No. 1 was adopted.

A record vote was requested.

**SB 766**, as amended, was passed by (Record 1673): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; 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; Martinez Fischer; McCall; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Allen; Brown, B.; Chavez; Escobar; Krusee; McClendon; Moreno.

### STATEMENTS OF VOTE

When Record No. 1673 was taken, I was in the house but away from my desk. I would have voted yes.

Allen

When Record No. 1673 was taken, I was in the house but away from my desk. I would have voted yes.

Chavez

### SB 2031 ON THIRD READING (Chisum - House Sponsor)

**SB 2031**, A bill to be entitled An Act relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

**SB 2031** was read third time earlier today and was postponed until this time.

#### Amendment No. 1

Representatives Gattis, Leibowitz, Branch, and Eiland offered the following amendment to **SB 2031**:

Amend **SB 2031**, on third reading, as follows:

(1) In SECTION 1 of the bill, in added Subsection (a), Section 111.003, Civil Practice and Remedies Code, strike Subdivisions (1) and (2), (page 2, lines 10-16, house committee printing), and substitute the following:

(1) requires this state to pay total monetary damages in an amount that exceeds \$25,000,000 in a state fiscal biennium; or

(2) commits this state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums.

Amendment No. 1 was adopted.

A record vote was requested.

**SB 2031**, as amended, was passed by (Record 1674): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Bolton; Farrar; Flores; Gallego; Garcia; McClendon; Turner.

#### STATEMENTS OF VOTE

When Record No. 1674 was taken, I was in the house but away from my desk. I would have voted yes.

Bolton

When Record No. 1674 was taken, my vote failed to register. I would have voted yes.

Gallego

When Record No. 1674 was taken, I was in the house but away from my desk. I would have voted yes.

Garcia

**MAJOR STATE CALENDAR**  
**(consideration continued)**

**SB 9 ON THIRD READING**  
**(Branch and Madden - House Sponsors)**

**SB 9**, A bill to be entitled An Act relating to the dissemination of criminal history record information and child abuse investigation reports for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

**RESOLUTIONS ADOPTED**

Representative Leibowitz moved to suspend all necessary rules in order to take up and consider at this time **HCR 257**, **HCR 267**, **HR 2617 - HR 2619**, **HR 2624**, and **HR 2628**.

The motion prevailed.

The following resolutions were laid before the house:

**HCR 257** (by Corte), Honoring Texans who have died while serving in the Global War on Terrorism and all men and women who have served in the United States armed forces.

**HCR 267** (by Hilderbran), In memory of Emma Louise Stengel Bean of Menard.

**HR 2617** (by Patrick), In memory of U.S. Army Sergeant Glenn D. Hicks, Jr., of College Station.

**HR 2618** (by Patrick), In memory of U.S. Army Specialist Russell H. Nahvi of Arlington.

**HR 2619** (by Patrick), In memory of U.S. Army National Guard Sergeant Steve Morin of Arlington.

**HR 2624** (by Farabee), In memory of U.S. Air Force Major Troy L. Gilbert of Texas.

**HR 2628** (by Geren), In memory of U.S. Army Sergeant Rhonald E. Meeks of Weatherford.

The resolutions were unanimously adopted by a rising vote.

**HCR 266 - ADOPTED**  
**(by Hilderbran)**

Representative Leibowitz moved to suspend all necessary rules to take up and consider at this time **HCR 266**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 266**, Honoring the 100th anniversary of Saint Joseph Catholic Church in Rowena.

**HCR 266** was adopted.

**SCR 84 - ADOPTED**  
**(Leibowitz - House Sponsor)**

Representative Leibowitz moved to suspend all necessary rules to take up and consider at this time **SCR 84**.

The motion prevailed.

The following resolution was laid before the house:

**SCR 84**, Recognizing Phil Hatlen on the occasion of his retirement from the Texas School for the Blind and Visually Impaired.

**SCR 84** was adopted.

**SB 9 - (consideration continued)**

**SB 9 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BONNEN: Mr. Branch, it is my understanding that a construction company which has a contract with a school district would be subject to this act. Is that correct?

REPRESENTATIVE BRANCH: Yes.

BONNEN: Is it the intent of this legislation to require that every person working on the construction site be subject to this act and therefore be required to be fingerprinted?

BRANCH: No, only those employees whose work will bring them into direct contact with students.

BONNEN: As you are aware, a construction area is usually fenced off or secured in some other manner. Would the employees working in these areas be required to be fingerprinted?

BRANCH: No, that would be a secure area and the provisions of this bill would not apply to employees working in those areas.

**REMARKS ORDERED PRINTED**

Representative Bonnen moved to print remarks between Representative Branch and Representative Bonnen.

The motion prevailed.

REPRESENTATIVE THOMPSON: Mr. Branch, the \$57 that it is going to cost for a fingerprint for teachers hired, how will that be paid?

REPRESENTATIVE BRANCH: I'm sorry, Ms. Thompson, I heard you talk about the \$57, how will it be paid?

THOMPSON: Yes.

BRANCH: What type of employees are you focusing on?

THOMPSON: Teachers.

BRANCH: Current teachers or future teachers?

THOMPSON: Current teachers.

BRANCH: Okay current teachers, since 2003, this fee has been paid for, not by the teachers, but by the school districts.

THOMPSON: Okay.

BRANCH: Okay, since 2003 and forward. What this bill will do is expand that to pre-2003 and \$30 million has been set aside in the budget to pay for the fingerprinting of existing current teachers that are not under the current 2003 and forward program.

THOMPSON: Well let me ask you something. What about persons like a hospital cafeteria worker, the maintenance engineers, and people of that nature? How will their fingerprinting fees be paid, who work on those campuses?

BRANCH: That's an excellent question. There are a lot of different types of employees on these campuses, as you know, and let me focus on that different group. The noncertified employees that are new would have this \$57 fee. It would be a one-time fee, and under the bill that came from the senate, that would be paid by either the employee as they enter the workforce or by the school district, as was amended in the house version on second reading. It would only be implemented if the state funds were made available.

THOMPSON: Okay, let me ask you this question. These funds, are they going to come out of GR that we're going to be giving to the school districts?

BRANCH: I'm sorry, I couldn't hear you.

THOMPSON: Will these funds be coming out of General Revenue that we're going to be—it's \$30 million we're talking about?

BRANCH: Yes, ma'am.

THOMPSON: Okay, now has the money already been set aside with the appropriations bill?

BRANCH: Yes. The \$30 million has been set aside contingent on the passage of this bill. Yes, ma'am.

THOMPSON: It's a contingency rider?

BRANCH: Or the passage of this bill.

THOMPSON: Or the passage of the bill, okay. Who is going to have access to this fingerprinting information?

BRANCH: Well, the access would be limited to the school districts and their HR departments and, I guess, their security departments.

THOMPSON: Okay, are you talking about the principal and the persons over human resources?

BRANCH: Yes. It'd generally be a need-to-know basis: human resources, principal, the hire-fire decision makers.

THOMPSON: So, it's going to be several persons that would have access to this information?

BRANCH: Well, it'd be similar to how HR and personnel records are dealt with right now, which is on for the most part, a confidential basis, and only by decision makers and need-to-know basis. That's my understanding.

THOMPSON: Have you placed any safeguards in this bill, since this is sensitive information, to safeguard this material or this information that's going to be gathered on these individuals?

BRANCH: A lot of this information, when we go to the new approach, is actually in a national database, so only these individuals that we've been talking about would have the access to it. We had two amendments put on it last night, by Mr. Burnam, that if someone is no longer in the system then we wouldn't have access to that information, once they've left the employee of the school district, in order to protect their privacy.

THOMPSON: Thank you very much. Will this information be subject to Open Records?

THOMPSON: My understanding Ms. Thompson is that it would be treated just like our current personnel records so it would be limited and there are privacy issues to keep it from being discovered under Open Records request.

### REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks between Representative Branch and Representative Thompson.

The motion prevailed.

#### Amendment No. 1

Representative Rose offered the following amendment to **SB 9**:

Amend **SB 9** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. (a) In this section, "task force" means the task force established under this section to establish a strategy for reducing child abuse and neglect and improving child welfare.

(b) The task force consists of 15 members appointed as follows:

(1) five members appointed by the governor;

(2) five members appointed by the lieutenant governor; and

(3) five members appointed by the speaker of the house of representatives.

(c) Members of the task force must be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. The appointment of members must reflect the geographic diversity of the state.

(d) A member of the task force may not be appointed to, or be an employee of, a state agency.

(e) A member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

(f) The task force shall elect a presiding officer by a majority vote of the membership of the task force.

(h) The task force shall meet at the call of the presiding officer.

(i) Chapter 2110, Government Code, does not apply to the task force.

(j) The task force shall establish a strategy for reducing child abuse and neglect and for improving child welfare in this state. In establishing that strategy, the task force shall:

(1) gather information concerning child safety, child abuse and neglect, and child welfare throughout the state;

(2) review the exemptions from criminal liability provided under the Penal Code to a mother who injures her unborn child by using a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, during her pregnancy and examine the effect that repealing the exemptions will have on reducing the number of babies who are born addicted to a controlled substance;

(3) receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;

(4) create goals for state policy that would improve child safety, prevent child abuse and neglect, and improve child welfare; and

(5) submit a strategic plan to accomplish those goals.

(k) The strategic plan submitted under Subsection (j) of this section may include proposals for specific statutory changes, the creation of new programs, and methods to foster cooperation among state agencies and between the state and local government.

(l) The task force shall consult with employees of the Department of Family and Protective Services, the Department of State Health Services, and the Texas Department of Criminal Justice as necessary to accomplish the task force's responsibilities under this section.

(m) The task force may cooperate as necessary with any other appropriate state agency.

(n) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the members of the task force not later than October 1, 2007.

(o) Not later than August 1, 2009, the task force shall submit the strategic plan required by Subsection (j) of this section to the governor, lieutenant governor, and speaker of the house of representatives.

(p) The task force is abolished and this section expires September 1, 2009.

## **Amendment No. 2**

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

Amend Amendment No. 1 by Rose to **SB 9** on third reading as follows:

(1) In Subsection (a) of the SECTION of the bill proposed by the amendment (page 1, lines 5 and 6), strike "establish a strategy" and substitute "develop recommendations".

(2) In Subsection (j) of the SECTION of the bill proposed by the amendment (page 2, line 2), strike "establish a strategy" and substitute "develop recommendations".

(3) In Subsection (j) of the SECTION of the bill proposed by the amendment (page 2, line 4), strike "establishing that strategy" and substitute "developing the recommendations".

(4) Strike Subdivision (5), Subsection (j) of the SECTION of the bill proposed by the amendment (page 2, lines 21 and 22), and substitute "(5) review the strategic plan submitted by the Interagency Coordinating Council for Building Healthy Families."

(5) In Subsection (k) of the SECTION of the bill proposed by the amendment (page 2, line 23), strike "strategic plan" and substitute "recommendations".

(6) In Subsection (l) of the SECTION of the bill proposed by the amendment (page 2, lines 30 and 31), strike "and the Texas Department of Criminal Justice" and substitute "the Texas Department of Criminal Justice, and the Interagency Coordinating Council for Building Healthy Families".

(7) In Subsection (o) of the SECTION of the bill proposed by the amendment (page 3, line 8), strike "strategic plan" and substitute "recommendations".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

### **Amendment No. 3**

Representative Allen offered the following amendment to **SB 9**:

Amend **SB 9** on third reading by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 552.116(a), Government Code, is amended to read as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, or a joint board operating under Section 22.074, ~~Transportation Code~~, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

SECTION \_\_\_\_\_. Section 552.116(b)(1), Government Code, is amended to read as follows:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

SECTION \_\_\_\_\_. The change in law made by this Act to Section 552.116, Government Code, applies to an audit working paper created before, on, or after the effective date of this Act.

Amendment No. 3 was adopted.

### **SB 9 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE GOOLSBY: Mr. Branch, one of the school districts that Mr. Hill and I represent, the Richardson Independent School District, for the last six years, has been using a program almost identical to what you're describing in this bill. Would they be in violation if they didn't change over to exactly what this bill says?

REPRESENTATIVE BRANCH: No, Mr. Goolsby. Under the house version, I think Representative Geren put an amendment on the bill that allows them latitude to use the private service versus the DPS service. So we have latitude in the house version. And I'm not familiar with the precise approach being used in Richardson. I know many school districts have been using a background check

approach and some had a difficult experience with the old fingerprinting method. This is the digital fingerprinting, which is a much better technology, and you don't have a loss with smears. What we learned from the tests done during the committee was the combination of a background check and digital fingerprinting is the best way to protect our children from these types of predators getting into the school system.

GOOLSBY: Are you using the FBI fingerprinting or what source do you use?

BRANCH: Yes, yes it's the DPS-FBI digital fingerprint, and it connects us to the national database.

GOOLSBY: Okay, I think this is what they're doing.

### REMARKS ORDERED PRINTED

Representative Goolsby moved to print remarks between Representative Branch and Representative Goolsby.

The motion prevailed.

A record vote was requested.

**SB 9**, as amended, was passed by (Record 1675): 127 Yeas, 8 Nays, 1 Present, not voting.

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

Nays — Alonzo; Anchia; Dutton; Frost; Herrero; Hopson; Jones; Leibowitz.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Bailey; Brown, B.; Crownover; Davis, Y.; Driver; Farrar; Gonzales; Hartnett; Keffer; Krusee; Mallory Caraway; Paxton; Taylor.

### STATEMENTS OF VOTE

When Record No. 1675 was taken, I was in the house but away from my desk. I would have voted yes.

Y. Davis

When Record No. 1675 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

When Record No. 1675 was taken, I was in the house but away from my desk. I would have voted yes.

Keffer

When Record No. 1675 was taken, my vote failed to register. I would have voted yes.

Mallory Caraway

When Record No. 1675 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

**SB 1879 ON THIRD READING**  
**(Hamilton - House Sponsor)**

**SB 1879**, A bill to be entitled An Act relating to the regulation of controlled substances.

**Amendment No. 1**

Representative Hamilton offered the following amendment to **SB 1879**:

Amend **SB 1879** (house committee printing) as follows:

(1) In SECTION 6 of the bill, in Subdivision (1), Subsection (b), between "Safety" and the semicolon (page 13, line 5), insert "or the director's designee".

(2) In SECTION 6 of the bill, in Subsection (c), between "director" and "is" (page 13, line 19), insert "or the director's designee".

(3) In SECTION 6 of the bill, in Subsection (c) (page 13, line 22), strike "director" and substitute "presiding officer".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Hopson offered the following amendment to **SB 1879**:

Amend **SB 1879** on third reading in SECTION 5 of the bill, in new Section 481.301, Health and Safety Code (page 7, line 14), by striking "481.067," "481.073," "481.074," and "481.075,".

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Isett offered the following amendment to **SB 1879**:

Amend **SB 1879** on third reading in SECTION 5 of the bill, in proposed Subchapter H, Chapter 481, Health and Safety Code (between page 12, line 27, and page 13, line 1), by inserting a new Section 481.314 to read as follows:

Sec. 481.314. DISPOSITION OF PENALTY. The department shall send any amount collected as a penalty under this subchapter to the comptroller for deposit to the credit of the general revenue fund.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Laubenberg offered the following amendment to **SB 1879**:

Amend **SB 1879** on third reading, in SECTION 2 of the bill, by striking amended Section 481.074(k)(3), Health and Safety Code, and substituting the following:

(3) the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

Amendment No. 4 was adopted.

**Amendment No. 5**

Representative Naishtat offered the following amendment to **SB 1879**:

Amend **SB 1879** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 481.121, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) It is an affirmative defense to prosecution under Subsection (a) for the possession of marihuana that the person possessed the marihuana as a patient of a physician licensed to practice medicine in this state pursuant to the recommendation of that physician for the amelioration of the symptoms or effects of a bona fide medical condition.

(d) An agency, including a law enforcement agency, of this state or a political subdivision of this state may not initiate an administrative, civil, or criminal investigation into a physician licensed to practice medicine in this state on the ground that the physician discussed marihuana as a treatment option with a patient of the physician or made a written or oral statement that, in the physician's opinion, the potential benefits of marihuana would likely outweigh the health risks for a particular patient.

SECTION \_\_\_\_\_. Subchapter B, Chapter 164, Occupations Code, is amended by adding Section 164.0525 to read as follows:

Sec. 164.0525. MEDICAL USE OF MARIHUANA. A physician may not be denied any right or privilege or be subject to any disciplinary action solely for making a written or oral statement that, in the physician's professional opinion, the potential benefits of marihuana would likely outweigh the health risks for a particular patient.

SECTION \_\_\_\_\_. The change in law made by this Act to Section 481.121, Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 5 was withdrawn.

**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. 6).

**SB 1879 - (consideration continued)****Amendment No. 6**

Representative Thompson offered the following amendment to **SB 1879**:

Amend **SB 1879** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION \_\_\_\_\_. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.27 to read as follows:

Art. 43.27. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. The Texas Innocence Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of nine members. The governor shall appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. The lieutenant governor shall appoint one member, who may be a member of the legislature. The speaker of the house of representatives shall appoint one member, who may be a member of the legislature. The presiding judge of the court of criminal appeals shall appoint one member, who must be a member of the judiciary. The presiding officer of the Texas Forensic Science Commission shall appoint one member, who must work in the forensic science field. The Texas District and County Attorneys Association shall appoint one member, who must be a prosecuting attorney. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer. The president of the Texas Center for Actual Innocence at The University of Texas School of Law, the director of the innocence project at the University of Houston Law Center, or the director of the innocence project at the Texas Tech University School of Law, on a rotating basis, shall appoint one member, who must be an attorney with experience in filing successful appellate claims based on actual innocence.

(b) Each member serves a two-year term.

(c) The governor shall designate a member to serve as presiding officer.

Sec. 3. DUTIES. (a) The commission shall investigate thoroughly all postconviction exonerations involving controlled substances under state law, and including convictions vacated based on a plea to time served, to:

(1) ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue;

(2) identify errors and defects in the criminal justice process in this state generally;

(3) develop solutions and methods to correct the identified errors and defects; and

(4) identify procedures and programs to prevent future wrongful convictions.

(b) The commission may enter into contracts for research services as considered necessary to complete the investigation of a particular case, including forensic testing and autopsies.

Sec. 4. REPORT. (a) The commission shall compile a detailed annual report of its findings and recommendations, including any proposed legislation to implement procedures and programs to prevent future wrongful convictions or executions.

(b) The report shall be made available to the public on request.

(c) The findings and recommendations contained in the report may not be used as binding evidence in a subsequent civil or criminal proceeding.

Sec. 5. SUBMISSION. The commission shall submit the report described by Section 4 to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

Sec. 6. REIMBURSEMENT. A member of the commission is not

Amendment No. 6 was adopted. (The vote was reconsidered later today, and a point of order was sustained against the amendment.)

### **Amendment No. 7**

Representative McClendon offered the following amendment to **SB 1879**:

Amend **SB 1879** on third reading by inserting the following SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. The heading to Chapter 107, Occupations Code, is amended to read as follows:

CHAPTER 107. ~~[INTRACTABLE]~~ PAIN TREATMENT

SECTION \_\_\_\_\_. Chapter 107, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PATIENT BILL OF RIGHTS

Sec. 107.201. PATIENT RIGHTS IN PAIN TREATMENT. A patient who suffers from severe chronic or acute pain may:

(1) request or reject the use of any or all modalities to relieve the pain;  
(2) choose from appropriate pharmacologic treatment options to relieve the pain, including opiate medications, without first having to submit to surgery or a medical procedure that results in the destruction of a nerve or other body tissue or the implantation of a drug delivery system or device; and

(3) ask the patient's physician to provide an identifying notice of a prescription to treat the pain for purposes of emergency treatment or law enforcement identification.

Sec. 107.202. DUTIES OF PHYSICIAN IN PAIN TREATMENT. A physician may refuse to prescribe opiate medication for a patient who requests that treatment for severe chronic or acute pain only if the physician provides the patient with the name of another physician who is qualified to treat the pain employing methods that include the use of opiates.

SECTION \_\_\_\_\_. Section 107.001, Occupations Code, is repealed.

Amendment No. 7 was adopted. (The vote was reconsidered later today, and Amendment No. 7 was withdrawn.)

A record vote was requested.

**SB 1879**, as amended, was passed by (Record 1676): 138 Yeas, 3 Nays, 1 Present, not voting. (The vote was reconsidered later today, and **SB 1879**, as amended, was passed by Record 1690.)

Yeas — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; 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.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Dutton; Riddle; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Anchia; Frost; Harless; Kolkhorst; Miles; Patrick; Turner.

### STATEMENTS OF VOTE

When Record No. 1676 was taken, I was in the house but away from my desk. I would have voted yes.

Anchia

When Record No. 1676 was taken, my vote failed to register. I would have voted yes.

Patrick

## GENERAL STATE CALENDAR SENATE BILLS THIRD READING

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

### SB 1332 ON THIRD READING (Chavez - House Sponsor)

**SB 1332**, A bill to be entitled An Act relating to the establishment of debt management policies and guidelines by the Bond Review Board, including the approval by the board of certain interest rate management agreements.

#### Amendment No. 1

Representative Chavez offered the following amendment to **SB 1332**:

Amend **SB 1332** on third reading as follows:

(1) In the section of the bill, as added by Floor Amendment No. 4 by King, that amends Subdivision (2), Section 1231.001, Government Code, strike the added Paragraph (C) of that subdivision (page 1, lines 21-28 of Floor Amendment No. 4) and substitute:

(C) an obligation, including a bond, that is issued under Chapter 53, Education Code, at the request of or for the benefit of an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college.

(2) Strike the SECTION of the bill that adds Section 1231.045 to Subchapter C, Chapter 1231, Government Code.

(3) In the transition clause (SECTION 4 of the house committee report), strike "Subsection (d), Section 1201.027 and Section 1231.045, Government Code, as added by this Act, apply only to:" and substitute "Subsection (d), Section 1201.027, Government Code, as added by this Act, applies only to:".

(4) Renumber the SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Chavez offered the following amendment to **SB 1332**:

Amend **SB 1332** on third reading as follows:

(1) In the section of the bill, as added by Floor Amendment No. 4 by King, that amends Subdivision (2), Section 1231.001, Government Code, strike the added Paragraph (C) of that subdivision (page 1, lines 21-28 of Floor Amendment No. 4) and substitute:

(C) an obligation, including a bond, that is issued under Chapter 53, Education Code, at the request of or for the benefit of an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college.

(2) Strike the SECTION of the bill that adds Section 1231.045 to Subchapter C, Chapter 1231, Government Code.

(3) In the transition clause (SECTION 4 of the house committee report), strike "Subsection (d), Section 1201.027 and Section 1231.045, Government Code, as added by this Act, apply only to:" and substitute "Subsection (d), Section 1201.027, Government Code, as added by this Act, applies only to:".

(4) Renumber the SECTIONS of the bill accordingly.

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Alonzo offered the following amendment to **SB 1332**:

Amend **SB 1332**, on third reading, by striking the SECTION of the bill that amends Subchapter C, Chapter 1232, Government Code, and that is titled "Preference for Texas Businesses", and substituting the following:

SECTION \_\_\_\_\_. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.124 to read as follows:

Sec. 1232.124. CONTRACTS WITH HISTORICALLY UNDERUTILIZED BUSINESSES. If the authority contracts with a private entity to issue bonds under this chapter, the authority shall contract with a historically underutilized business as defined by Section 2161.001.

A record vote was requested.

Amendment No. 3 failed of adoption (not receiving the necessary two-thirds vote) by (Record 1677): 68 Yeas, 62 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bohac; Bolton; Burnam; Chavez; Cohen; Coleman; Cook, R.; Corte; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Escobar; Farias; Farrar; Flores; Garcia; Gattis; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hartnett; Hernandez; Herrero; Hochberg; Howard, D.; Krusee; Latham; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno; Mowery; Naishtat; Noriega; Olivo; Ortiz; Pickett; Pierson; Puente; Quintanilla; Raymond; Rodriguez; Smith, T.; Strama; Thompson; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; Zerwas.

Nays — Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Chisum; Christian; Cook, B.; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Elkins; England; Farabee; Flynn; Geren; Hancock; Harless; Harper-Brown; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Kuempel; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Phillips; Pitts; Riddle; Ritter; Smith, W.; Smithee; Swinford; Talton; Taylor; Truitt; West; Woolley; Zedler.

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

Absent, Excused — Castro.

Absent — Anderson; Callegari; Dukes; Frost; Gallego; Heflin; Hilderbran; Hodge; King, T.; Martinez; Miles; Oliveira; Paxton; Peña; Rose; Solomons; Straus.

### STATEMENTS OF VOTE

When Record No. 1677 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

When Record No. 1677 was taken, my vote failed to register. I would have voted no.

Hilderbran

When Record No. 1677 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

I was shown voting yes on Record No. 1677. I intended to vote no.

T. Smith

### Amendment No. 4

Representative Branch offered the following amendment to **SB 1332**:

Amend **SB 1332** on third reading by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. (a) Chapter 1371, Government Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. ADVISORS RETAINED FOR THE ISSUANCE OF PUBLIC SECURITIES AND RELATED MATTERS

Sec. 1371.151. DEFINITIONS. In this subchapter:

(1) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including:

(A) a swap, basis, forward, option, cap, collar, floor, lock, or hedge;

or

(B) any combination of these types of agreements or transactions.

(2) "Public security" has the meaning assigned by Section 1202.001.

Sec. 1371.152. EXEMPTIONS. This subchapter does not apply to:

(1) an issuer who has more than \$3 billion in outstanding obligations as of September 1, 2007, or to a nonprofit corporation investing funds on behalf of such an issuer;

(2) any person acting as a financial advisor with respect to an issue of public securities by an issuer created under Chapter 222, Water Code, delivered before January 1, 2010, under a contract that was in effect on the date of enactment of this Act and that has not been modified since such date; or

(3) an employee of an issuer providing advice to the issuer, or to another issuer.

Sec. 1371.153 EXEMPTIONS FOR CERTAIN ADVICE. This subchapter does not apply to advice to an issuer regarding:

(1) a loan or a line of credit by a depository institution to an issuer in a transaction not involving the issuance of a public security offered to a third party or parties; or

(2) a deposit of funds with a depository institution in compliance with other statutes of this state.

Sec. 1371.154. FINANCIAL ADVISOR OR INVESTMENT ADVISOR QUALIFICATIONS AND REQUIREMENTS FOR CERTAIN AGREEMENTS AND TRANSACTIONS. (a) This section applies to a financial advisor or an investment advisor, who advises the issuer in connection with:

(1) an interest rate management agreement;

(2) the execution or delivery of a public security; or

(3) the investment of the public security proceeds.

(b) To be eligible to be a financial advisor or an investment advisor under this section, the advisor must:

(1) be a dealer or investment advisor registered in accordance with Section 12 or 12-1, The Securities Act (Article 581-12 or 581-12-1, Vernon's Texas Civil Statutes); provided that a person acting as an investment advisor with respect to the investment of bond proceeds, and not as a financial advisor with respect to the issuance of public securities or interest rate management agreements may be registered under the federal Investment Advisors Act of 1940 in lieu of registration under The Securities Act;

(2) have relevant experience in providing advice to issuers in connection with:

(A) the issuance of public securities;

(B) the valuation of interest rate management agreements; or

(C) the investment of public security proceeds; and

(3) acknowledge in writing to the issuer that in connection with the transaction for which the advisor is providing advice the advisor:

(A) is acting as the issuer's agent; and

(B) has complied with rules adopted under this subchapter.

Sec. 1371.155. RULES. The State Securities Board shall adopt rules relating to public securities, interest rate management agreements, and investment of bond proceeds applicable to financial advisors and investment advisors under this subchapter. The board shall base the rules on principles stated, as of May 1, 2007, in the Municipal Securities Rulemaking Board's rules G-17, G-19(c), G-20, G-37, and G-38 as those rules may apply to financial advisors and investment advisors.

(b) Not later than January 1, 2008, the State Securities Board shall adopt the rules required by Section 1371.155, Government Code, as added by this Act.

(c) Section 1371.154, Government Code, as added by this section, takes effect January 1, 2008.

Amendment No. 4 was adopted.

A record vote was requested.

**SB 1332**, as amended, was passed by (Record 1678): 138 Yeas, 9 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Bailey; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; 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.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Berman; Bonnen; Christian; Crabb; Dutton; Flynn; Geren; Phillips; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — King, T.

## RESOLUTIONS CALENDAR

The chair laid before the house the following resolutions on committee report:

### SCR 1

#### (Gonzales - House Sponsor)

**SCR 1**, Encouraging the National Health Services Corps Ambassador Program to coordinate with the Primary Care Office at the Texas Department of State Health Services.

**SCR 1** was adopted.

### SCR 60

#### (Eiland - House Sponsor)

**SCR 60**, Urging Congress to maintain the states as the sole regulators of the business of insurance and to oppose the establishment of a federal insurance regulatory system.

**SCR 60** was adopted.

**CSHCR 138**  
**(by Strama)**

**CSHCR 138**, Granting WB IND-HP, Ltd., permission to sue the state, the Texas Building and Procurement Commission, and the Texas Department of Public Safety.

**CSHCR 138** was adopted.

**CSHCR 155**  
**(by Burnam)**

**CSHCR 155**, Granting the Chishty family permission to sue the State of Texas, the Department of Aging and Disability Services, and the Denton State School.

**CSHCR 155** was adopted.

**CSHCR 121**  
**(by Peña)**

**CSHCR 121**, Posthumously awarding the Texas Legislative Medal of Honor to Sergeant Alfredo Gonzalez for his heroic actions in Vietnam during the Tet Offensive.

**CSHCR 121** was adopted.

On motion of Representative Hamilton, the names of all the members of the house were added to **CSHCR 121** as signers thereof.

**HB 957 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

Representative Orr called up with senate amendments for consideration at this time,

**HB 957**, A bill to be entitled An Act relating to participation by certain state employees in a default investment product under a deferred compensation plan.

Representative Orr moved to concur in the senate amendments to **HB 957**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1679): 145 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Herrero; Leibowitz.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Martinez.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1679. I intended to vote no.

Hodge

#### Senate Committee Substitute

**CSHB 957**, A bill to be entitled An Act relating to participation by certain state employees in a default investment product under a deferred compensation plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 609, Government Code, is amended by adding Section 609.5025 to read as follows:

Sec. 609.5025. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT PRODUCT. (a) This section applies only to an employee of a state agency participating in a 401(k) plan.

(b) An employee participates in a 401(k) plan unless the employee affirmatively elects not to participate in the plan. Notwithstanding Sections 609.007(b) and (c), an employee is not required to affirmatively contract for and consent to participation in a plan under this section.

(c) An employee participating in a 401(k) plan under this section makes a contribution of one percent of the compensation earned by the employee to a default investment product selected by the board of trustees based on the criteria established under Section 609.505(d) and the rules adopted under Subsection (f). The contribution is made by automatic payroll deduction.

(d) At any time, an employee participating in a 401(k) plan under this section may, in accordance with rules adopted by the board of trustees, elect to end participation in the 401(k) plan, to contribute to a different investment product, or to contribute a different amount to the plan.

(e) The board of trustees shall ensure that, at the time of employment, each employee is informed of:

(1) the elections the employee may make under this section; and

(2) the responsibilities of the employee under Section 609.010.

(f) The board of trustees shall adopt rules to implement the requirements of this section. The rules must ensure that the operation of the 401(k) plan under this section conforms to the applicable requirements of any federal rule that provides fiduciary relief for investments in qualified default investment alternatives or otherwise governs default investment alternatives under participant-directed individual account plans.

(g) The amount deducted under this section from an employee's compensation is not deducted for payment of a debt and the automatic payroll deduction is not garnishment or assignment of wages.

(h) Within existing resources, a state agency participating in a 401(k) plan shall inform new hires of their automatic enrollment in a 401(k) account and their right to opt-out of enrollment. Within existing resources, this information shall be included as part of the new employee orientation process. State agencies participating in a 401(k) plan shall maintain a record of a new hire's acknowledgement of receipt of information regarding the ability to opt-out of enrollment in a 401(k) plan.

SECTION 2. Section 609.007(c), Government Code, is amended to read as follows:

(c) Except as provided by Section 609.5025, to ~~the~~ participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount.

SECTION 3. Section 659.102(a), Government Code, is amended to read as follows:

(a) An employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for coverage of the employee under an eligible supplemental optional benefits program. A deduction may be made each pay period from the employee's salary or wage payment without authorization in writing from the employee for participation in a 401(k) plan as provided by Section 609.5025.

SECTION 4. Section 609.5025, Government Code, as added by this Act, applies only to an officer or employee of a state agency who initially takes office or begins employment on or after January 1, 2008.

SECTION 5. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

## **HB 1092 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Hilderbran called up with senate amendments for consideration at this time,

**HB 1092**, A bill to be entitled An Act relating to the prosecution of the offense of criminal trespass.

Representative Hilderbran moved to concur in the senate amendments to **HB 1092**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1680): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; 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 Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; 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; Laubenberg; Leibowitz;

Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Brown, B.; Crabb; Crownover; Heflin; Latham; McClendon; Pierson; Riddle; Talton; Taylor.

### STATEMENTS OF VOTE

When Record No. 1680 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1680 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

When Record No. 1680 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1092** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 30, Penal Code, is amended by adding Section 30.07 to read as follows:

Sec. 30.07. TRESPASS ON DOCKING PLACE. (a) In this section:

(1) "Docking place" includes a pier, wharf, dock, slip, slipway, or any other man-made landing area for ships, boats, or other watercraft.

(2) "Enter" means to intrude:

(A) any part of the body; or

(B) any physical object connected with the body.

(3) "Notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders from the docking place; or

(C) a sign or signs posted on a docking place or at the entrance to a docking place, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(b) A person commits an offense if the person:

(1) enters the docking place of another without the effective consent of the owner or lessee of the docking place; and

(2) after receiving notice that entry is forbidden, remains in, on, or attached to the docking place.

(c) A person commits an offense if the person, after receiving notice that entering a docking place is forbidden, anchors, ties up, moors, or otherwise makes stationary the actor's ship, boat, or other watercraft at a place or in a manner that eliminates another's ingress or egress from the docking place.

(d) An offense under this section is a Class B misdemeanor.

(e) The defense provided by Section 30.05(c) applies to an offense under this section.

### **HB 1303 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Peña called up with senate amendments for consideration at this time,

**HB 1303**, A bill to be entitled An Act relating to the manner of providing notice of a petition or order for the expunction or nondisclosure of certain criminal records.

Representative Peña moved to concur in the senate amendments to **HB 1303**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1681): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Kruse; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Castro.

#### **Senate Committee Substitute**

**CSHB 1303**, A bill to be entitled An Act relating to certain requirements applicable to orders of expunction or nondisclosure of criminal history records and to the protection of information that is the subject of one of those orders; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (b), (c), and (f), Section 2, Article 55.02, Code of Criminal Procedure, are amended to read as follows:

(b) The petition must be verified and shall include the following or an explanation for why one or more of the following is not included:

- (1) the petitioner's:
  - (A) full name;
  - (B) sex;
  - (C) race;
  - (D) date of birth;
  - (E) driver's license number;
  - (F) social security number; and
  - (G) address at the time of the arrest;
- (2) the offense charged against the petitioner;
- (3) the date the offense charged against the petitioner was alleged to have been committed;
- (4) the date the petitioner was arrested;
- (5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the petitioner;
- (7) the case number and court of offense; and
- (8) a list of all:
  - (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;
  - (B) ~~and of all~~ central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction; and
  - (C) private entities that compile and disseminate for compensation criminal history record information that the petitioner has reason to believe have information related to records or files that are subject to expunction.

(c) The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give to each official or agency or other governmental entity named in the petition reasonable notice of the hearing by:

- (1) certified mail, return receipt requested; or
- (2) ~~if requested in writing by the petitioner,~~ secure electronic mail, electronic transmission, or facsimile transmission.

(f) An ex parte petition filed under Subsection (e) must be verified and must include the following or an explanation for why one or more of the following is not included:

- (1) the person's:
  - (A) full name;
  - (B) sex;
  - (C) race;
  - (D) date of birth;
  - (E) driver's license number;
  - (F) social security number; and
  - (G) address at the time of the arrest;
- (2) the offense charged against the person;
- (3) the date the offense charged against the person was alleged to have been committed;
- (4) the date the person was arrested;

- (5) the name of the county where the person was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the person;
- (7) the case number and court of offense; and
- (8) a list of all:

(A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(B) ~~[and of all]~~ central federal depositories of criminal records that the person has reason to believe have records or files that are subject to expunction; and

(C) private entities that compile and disseminate for compensation criminal history record information that the person has reason to believe have information relating to records or files that are subject to expunction.

SECTION 2. Subsection (c), Section 2a, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) After verifying the allegations in an application received under Subsection (a), the attorney representing the state shall:

(1) include on the application information regarding the arrest that was requested of the applicant but was unknown by the applicant;

(2) forward a copy of the application to the district court for the county;

(3) attach to the copy a list of all:

(A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(B) ~~[and of all]~~ central federal depositories of criminal records that are reasonably likely to have records or files containing information that is subject to expunction; and

(C) private entities that compile and disseminate for compensation criminal history record information that are reasonably likely to have records or files containing information that is subject to expunction; and

(4) request the court to enter an order directing expunction based on an entitlement to expunction under Article 55.01(d).

SECTION 3. Section 3, Article 55.02, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state designated by the person who is the subject of the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission~~[- if requested in writing by the person who is the subject of the order,]~~ or otherwise by certified mail, return receipt requested. In sending the order to a governmental ~~[an]~~ entity designated by the person, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

(c-1) The Department of Public Safety shall notify any central federal depository of criminal records by any means, including secure electronic mail, electronic transmission, or facsimile transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, either:

(1) destroy or return to the court the records in possession of the depository that are subject to the order, including any information with respect to the order; or

(2) comply with Section 5(f) [~~of this article~~] pertaining to information contained in records and files of a person entitled to expunction under Article 55.01(d).

(c-2) The Department of Public Safety shall also provide, by secure electronic mail, electronic transmission, or facsimile transmission, notice of the order to any private entity that is named in the order or that purchases criminal history record information from the department. The notice must include an explanation of the effect of the order and a request that the entity destroy any information in the possession of the entity that is subject to the order. The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing notice under this subsection to the entity.

SECTION 4. Subsections (a) and (f), Section 5, Article 55.02, Code of Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection (f), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(f) On receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, or other governmental entity named in the order:

(1) shall:

(A) obliterate all portions of the record or file that identify the petitioner; and

(B) substitute for all obliterated portions of the record or file any available information that identifies the person arrested; and

(2) may not return the record or file or delete index references to the record or file.

SECTION 5. Subsection (e), Section 411.081, Government Code, is amended to read as follows:

(e) A person is entitled to petition the court under Subsection (d) only if during the period of the deferred adjudication community supervision for which the order of nondisclosure is requested and during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to

petition the court under Subsection (d) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; or

(4) any other offense involving family violence, as defined by Section 71.004, Family Code.

SECTION 6. Subsection (g), Section 411.081, Government Code, as amended by Chapters 177 and 1309, Acts of the 79th Legislature, Regular Session, 2005, and Subsection (g-1), Section 411.081, Government Code, as added by Chapters 177 and 1309, Acts of the 79th Legislature, Regular Session, 2005, are reenacted as Subsections (g), (g-1), (g-1a), (g-1b), and (g-1c), Section 411.081, and amended to read as follows:

(g) Not later than the 15th business day after the date ~~[When an order of nondisclosure is issued under this subsection, the clerk of the court shall send to the Crime Records Service of the Department of Public Safety a copy of the order by:~~

~~[(1) certified mail, return receipt requested; or~~

~~[(2) if requested in writing by the petitioner, secure electronic mail or facsimile transmission.~~

~~[(g) When] an order of nondisclosure is issued under this section, the clerk of the court shall send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to the Crime Records Service of the Department of Public Safety.~~

(g-1) Not later than 10 business days after receipt of relevant criminal history record information contained in an [the] order or a copy of an order under Subsection (g), the Department of Public Safety shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission [means] to all:

(1) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(2) central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department or that otherwise are likely to have criminal history record information that is subject to the order.

(g-1a) The director shall adopt rules regarding minimum standards for the security of secure electronic mail, electronic transmissions, and facsimile transmissions under Subsections (g) and (g-1). In adopting rules under this subsection, the director shall consult with the Office of Court Administration of the Texas Judicial System.

~~(g-1b) [(g-1) The Department of Public Safety shall send a copy of the order by mail or secure electronic mail or facsimile transmission to all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state, and to all central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order.~~

~~[(g-1)] Not later than 30 business days after receipt of relevant criminal history record information contained in an order or a copy of an order from the Department of Public Safety under Subsection (g-1) [(g)], an individual or entity described by Subsection (g-1)(1) [(g)(1)] shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.~~

(g-1c) The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing relevant criminal history record information contained in an order or a copy of an order under Subsection (g-1)(3) to the entity.

SECTION 7. Subchapter F, Chapter 411, Government Code, is amended by adding Sections 411.0835 and 411.0851 to read as follows:

Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO CERTAIN PRIVATE ENTITIES. If the department receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed three or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of expunction or an order of nondisclosure has been issued, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

Sec. 411.0851. DUTY OF PRIVATE ENTITY TO UPDATE CRIMINAL HISTORY RECORD INFORMATION; CIVIL LIABILITY. (a) A private entity that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d).

(b) A private entity described by Subsection (a) that purchases criminal history record information from the department or from another governmental agency or entity in this state:

(1) subject to Subsection (c), may disseminate that information only if the entity originally obtains or verifies the information within the 90-day period preceding the date of dissemination; and

(2) shall notify the department if the entity sells any compilation of the information to another similar entity.

(c) A private entity that disseminates information in violation of this section is liable for any damages that are sustained as a result of the violation by the person who is the subject of that information. A person who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorney's fees.

SECTION 8. Subsection (d), Section 411.085, Government Code, is amended to read as follows:

(d) The department shall provide a copy of this section to:

(1) each person who applies for access to criminal history record information maintained by the department; and

(2) each private entity that purchases criminal history record information from the department ~~with a copy of this section~~.

SECTION 9. The heading to Section 552.1425, Government Code, is amended to read as follows:

Sec. 552.1425. CIVIL PENALTY: DISSEMINATION ~~[RECORDS]~~ OF CERTAIN CRIMINAL HISTORY INFORMATION ~~[DEFERRED ADJUDICATIONS]~~.

SECTION 10. Subsections (a) and (b), Section 552.1425, Government Code, are amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d).

(b) A district court may issue a warning to a private entity for a first violation of Subsection (a). After receiving a warning for the first violation, the private entity is liable to the state for a civil penalty not to exceed \$1,000 ~~[\$500]~~ for each subsequent violation.

SECTION 11. Subsection (j), Section 411.081, Government Code, is repealed.

SECTION 12. (a) The change in law made by this Act to Article 55.02, Code of Criminal Procedure, applies to a person seeking expunction of arrest records and files regardless of whether the arrest occurred before, on, or after the effective date of this Act.

(b) Except as provided by Subsection (c), the change in law made by this Act to Section 411.081, Government Code, applies to any order of nondisclosure issued under that section on or after the effective date of this Act.

(c) Subsection (e), Section 411.081, Government Code, as amended by this Act for purposes of clarification, applies to any person who on or after the effective date of this Act petitions the court for an order of nondisclosure under Subsection (d), Section 411.081, Government Code, regardless of whether the order of nondisclosure was requested for conduct occurring before, on, or after the effective date of this Act.

(d) Not later than January 1, 2008, the Department of Public Safety of the State of Texas shall adopt rules concerning the standards for secure electronic mail, electronic transmissions, and facsimile transmissions as required by Section 411.081, Government Code, as amended by this Act.

(e) Not later than June 1, 2008, a court that issues and transmits orders of nondisclosure as described by Section 411.081, Government Code, as amended by this Act, and the Crime Records Service of the Department of Public Safety of

the State of Texas must comply with the secure electronic mail, electronic transmission, and facsimile transmission standards adopted by the Department of Public Safety under Section 411.081, Government Code.

(f) The change in law made by this Act in adding Section 411.0835, Government Code, and in repealing Subsection (j), Section 411.081, Government Code, applies to any private entity that purchases criminal history record information from the Texas Department of Criminal Justice and that, as found by a court, commits a third or subsequent violation of Section 552.1425, Government Code, on or after the effective date of this Act.

(g) The change in law made by this Act in adding Section 411.0851, Government Code, applies to any dissemination of information that occurs on or after the effective date of this Act.

(h) The change in law made by this Act to Section 552.1425, Government Code, applies to any private entity that receives notice under Subsection (a) of that section on or after the effective date of this Act.

SECTION 13. This Act takes effect September 1, 2007.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1303** (Senate committee report) in SECTION 7 of the bill by striking added Subsection (b), Section 411.0851, Government Code (page 5, lines 33-41), and substituting the following:

(b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C.) Sections 6801 to 6809), a private entity described by Subsection (a) that purchases criminal history record information from the department or from another governmental agency or entity in this state:

(1) may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity:

(A) originally obtains that information; or

(B) receives that information as updated record information to its database; and

(2) shall notify the department if the entity sells any compilation of the information to another similar entity.

### **HB 1316 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Goolsby called up with senate amendments for consideration at this time,

**HB 1316**, A bill to be entitled An Act relating to a fee exemption under the Public Accountancy Act for certain accountants in this state who are employed by the government of another state.

Representative Goolsby moved to concur in the senate amendments to **HB 1316**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1682): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb;

Creighton; 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 Tourelles; 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; Moreno; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Crownover.

### Senate Committee Substitute

**CSHB 1316**, a bill to be entitled An Act relating to a fee exemption under the Public Accountancy Act for accountants in this state who are employed by certain governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 901.410, Occupations Code, is amended to read as follows:

Sec. 901.410. FEE EXEMPTION FOR CERTAIN LICENSE HOLDERS. The fee increase imposed under Section 901.406 and the additional fee imposed under Section 901.407 do not apply to a license holder who is:

(1) an employee of the federal government, the government of another state, or a municipal or county government of this state and who is restricted by virtue of that employment from engaging in the practice of public accountancy outside the scope of employment; or

(2) an employee of a state agency that has authorized the payment of the fee increase and additional fee for the license holder.

SECTION 2. The change in law made by this Act applies to a fee under Section 901.406 or 901.407, Occupations Code, that becomes due on or after the effective date of this Act. A fee under those sections that becomes due before the effective date of this Act is governed by the law in effect on the date the fee becomes due, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### **HB 1521 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative R. Cook called up with senate amendments for consideration at this time,

**HB 1521**, A bill to be entitled An Act relating to the prohibition of signs on certain roads.

Representative R. Cook moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1521**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1521**: Kolkhorst, chair; R. Cook, Crownover, Gattis, and Hopson.

#### **HB 1944 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

**HB 1944**, A bill to be entitled An Act relating to the elimination of sexual assault against inmates confined in a facility operated by or under contract with the Texas Department of Criminal Justice.

Representative Coleman moved to concur in the senate amendments to **HB 1944**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1683): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; 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; Howard, C.; Howard, D.; Hughes; Isett; Jackson; 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; Moreno; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Dutton; Hopson; Jones; Rose.

### Senate Committee Substitute

**CSHB 1944**, A bill to be entitled An Act relating to the elimination of sexual assault against inmates confined in a facility operated by or under contract with the Texas Department of Criminal Justice.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 57.02, Code of Criminal Procedure, is amended by adding Subsection (i) to read as follows:

(i) This article does not prohibit the inspector general of the Texas Department of Criminal Justice from disclosing a victim's identifying information to the department's ombudsperson if the victim is an inmate or state jail defendant confined in a facility operated by or under contract with the department.

SECTION 2. Article 57.03, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) It is an exception to the application of this article that:

(1) the person who discloses the name, address, or telephone number of a victim is the inspector general of the Texas Department of Criminal Justice;

(2) the victim is an inmate or state jail defendant confined in a facility operated by or under contract with the department; and

(3) the person to whom the disclosure is made is the department's ombudsperson.

SECTION 3. Chapter 501, Government Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

Sec. 501.171. DEFINITIONS. In this subchapter:

(1) "Correctional facility" means a facility operated by or under contract with the department.

(2) "Inmate" means an inmate or state jail defendant confined in a facility operated by or under contract with the department.

Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall appoint an ombudsperson to coordinate the department's efforts to eliminate the occurrence of sexual assault in correctional facilities. The ombudsperson shall report to the board.

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The ombudsperson shall:

(1) monitor department policies for the prevention of sexual assault in correctional facilities;

(2) oversee the administrative investigation of inmate complaints of sexual assault;

(3) ensure the impartial resolution of inmate complaints of sexual assault; and

(4) collect statistics regarding all allegations of sexual assault from each correctional facility in accordance with the standards established by the National Prison Rape Elimination Commission.

(b) The ombudsperson may collect evidence at correctional facilities and interview inmates or employees at correctional facilities in conducting an investigation of an inmate complaint of sexual assault under this section.

(c) The ombudsperson may not require an inmate who reports a sexual assault to assist in the investigation or prosecution of the offense.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department shall adopt a policy providing for:

(1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;

(2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;

(3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:

(A) contact the ombudsperson and the office of the inspector general; and

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general, at the time the office is notified of the sexual assault, to arrange for a medical examination of the alleged victim to be conducted in accordance with Article 56.06, Code of Criminal Procedure, or, if an appropriate employee of the office of the inspector general is not available at the time the office is notified of the sexual assault, a qualified employee at the correctional facility to conduct a medical examination of the alleged victim in accordance with Article 56.06, Code of Criminal Procedure;

(5) a grievance proceeding under Section 501.008 based on an alleged sexual assault to be exempt from any deadline applicable to grievances initiated under that section; and

(6) each correctional facility to collect statistics on all alleged sexual assaults against inmates confined in the facility and to report the statistics to the ombudsperson.

Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC CERTAIN INFORMATION. The ombudsperson shall make available to the public and appropriate state agencies:

(1) information regarding the powers and duties of the ombudsperson; and

(2) statistical information regarding the total number of allegations of sexual assault investigated by the department, the outcome of the investigations, and any disciplinary sanctions imposed as a result of the investigations.

Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1 of each year, the ombudsperson shall submit a written report regarding the activities of the ombudsperson during the preceding fiscal year to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the presiding officer of each house and senate committee having jurisdiction over the department;

(5) the board;

(6) the executive director;

(7) the state auditor; and

(8) the comptroller.

(b) The report must include public information regarding:

(1) each investigation and monitoring activity relating to sexual assault completed during the fiscal year by the ombudsperson and the inspector general; and

(2) statistics collected by the ombudsperson regarding allegations of sexual assault.

(c) The annual report must meet the financial reporting requirements of the General Appropriations Act.

(d) Upon review of the findings of the annual report submitted to the board, the board shall make recommendations on, or implement policy that has the goal of, lowering the rate and incidence of sexual assault against inmates at a correctional facility. That policy will include methods to address a correctional facility where the rate and incidence of sexual assault against inmates has not shown improvement.

Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for the audit, investigation, or other review.

Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED. This subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321 or other law.

SECTION 4. Subsection (c-1), Article 57.03, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. Not later than December 1, 2008, the Texas Department of Criminal Justice shall appoint an ombudsperson and adopt a policy as required by Subchapter F, Chapter 501, Government Code, as added by this Act.

SECTION 6. Not later than January 1, 2009, the ombudsperson of the Texas Department of Criminal Justice shall submit the first report required by Section 501.176, Government Code, as added by this Act.

SECTION 7. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### **HB 1955 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative McClendon called up with senate amendments for consideration at this time,

**HB 1955**, A bill to be entitled An Act relating to the licensing of certain peace officers by the Commission on Law Enforcement Officer Standards and Education.

Representative McClendon moved to concur in the senate amendments to **HB 1955**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1684): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kruse; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; 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; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Jones; McCall; Noriega; Talton.

### Senate Committee Substitute

**CSHB 1955**, A bill to be entitled An Act relating to the licensing of certain peace officers by the Commission on Law Enforcement Officer Standards and Education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1701.159, Occupations Code, is amended to read as follows:

Sec. 1701.159. ~~[LIST OF]~~ ACTIVE AND INACTIVE PEACE OFFICERS. (a) The commission ~~[by rule]~~ shall establish a list of active licensed peace officers and a list of inactive licensed peace officers who leave the employment of a law enforcement agency.

(b) A retired peace officer as defined by Section 1701.3161 continues to hold as an inactive license the license the retired officer held at the time the retired officer last served as an elected, appointed, or employed peace officer unless the license was revoked for cause under Section 1701.501.

(c) A retired peace officer who holds an inactive license may not serve as a peace officer unless the person reactivates the license as provided by Section 1701.316 or 1701.3161.

SECTION 2. Section 1701.307, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The commission may issue a permanent license to a person who meets the requirements of this chapter and the rules prescribed by the commission to serve as an officer ~~and may issue a temporary or permanent license to a person to serve as a county jailer.~~

(c) The commission may issue a temporary or permanent license to a person to serve as a county jailer.

SECTION 3. Subchapter G, Chapter 1701, Occupations Code, is amended by adding Section 1701.3161 to read as follows:

Sec. 1701.3161. REACTIVATION OF PEACE OFFICER LICENSE: RETIRED PEACE OFFICERS. (a) In this section, "retired peace officer" means a person who served as a peace officer in this state who:

(1) is not currently serving as an elected, appointed, or employed peace officer under Article 2.12, Code of Criminal Procedure, or other law;

(2) was eligible to retire from a law enforcement agency in this state or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the law enforcement agency; and

(3) is eligible to receive a pension or annuity for service as a law enforcement officer in this state or is ineligible to receive a pension or annuity only because the law enforcement agency that employed the officer does not offer a pension or annuity to its employees.

(b) The commission shall adopt rules for the reactivation of a retired peace officer's license after a break in employment. The rules must allow a retired peace officer to reactivate the officer's license by completing the continuing education requirements prescribed by Section 1701.351 and completing any other continuing education requirement imposed by law in lieu of successfully completing any examination required by the commission for reactivation.

(c) The commission may waive the reinstatement fee established for the reactivation of a peace officer's license for a retired peace officer who is eligible for reactivation as provided by Subsection (b).

SECTION 4. As soon as practicable after the effective date of this Act, the Commission on Law Enforcement Officer Standards and Education shall adopt the rules required by Section 1701.3161, Occupations Code, as added by this Act.

SECTION 5. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### **HB 3106 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Isett called up with senate amendments for consideration at this time,

**HB 3106**, A bill to be entitled An Act relating to the implementation of enterprise resource planning by the comptroller.

Representative Isett moved to concur in the senate amendments to **HB 3106**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1685):  
148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Moreno; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

### Senate Committee Substitute

**CSHB 3106**, A bill to be entitled An Act relating to the implementation of enterprise resource planning by the comptroller.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2101.001, Government Code, is amended to read as follows:

Sec. 2101.001. DEFINITIONS ~~[DEFINITION]~~. In this chapter:

(1) "Enterprise resource planning" includes the administration of a state agency's:

(A) general ledger;

(B) accounts payable;

(C) accounts receivable;

(D) budgeting;

(E) inventory;

(F) asset management;

(G) billing;

(H) payroll;

(I) projects;

(J) grants; and

(K) human resources, including administration of performance measures, time spent on tasks, and other personnel and labor issues.

(2) "State [~~,"state~~] agency" has the meaning assigned by Section 403.013.

SECTION 2. Section 2101.031, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The comptroller shall ensure that the uniform statewide accounting project includes enterprise resource planning.

SECTION 3. Section 2101.036, Government Code, is amended to read as follows:

Sec. 2101.036. STATE AGENCY INTERNAL ACCOUNTING SYSTEMS. (a) The comptroller by rule may:

(1) require state agencies to modify, delay, or stop the implementation of individual accounting and payroll systems, including individual enterprise resource planning systems, so that those systems are compatible with the uniform statewide accounting system; and

(2) adopt standards for implementation and modification of state agency enterprise resource planning systems.

(b) The comptroller may require a state agency to:

(1) replace its internal enterprise resource planning system or accounting and payroll system with project components to provide uniformity in internal accounting and other enterprise resource planning system functions; and

(2) modify its internal enterprise resource planning system or accounting and payroll system to provide uniformity in internal accounting and other enterprise resource planning system functions.

(c) The expenditure of state funds for the establishment, modification, or maintenance of an individual enterprise resource planning system or accounting or payroll system must be in accordance with any rules regarding the development, implementation, or use of the uniform statewide accounting system.

(d) Notwithstanding any other provision of this chapter or other law, this section and any rules implementing this section apply only in relation to a state agency as defined by Section 2054.003.

SECTION 4. Section 2101.037(a), Government Code, is amended to read as follows:

(a) A state agency shall make available to the project director all records of the agency for purposes of developing and implementing the project, including complying with the rules and requirements prescribed by the comptroller under Section 2101.036.

SECTION 5. Subchapter C, Chapter 2101, Government Code, is amended by adding Section 2101.040 to read as follows:

Sec. 2101.040. ENTERPRISE RESOURCE PLANNING ADVISORY COUNCIL. (a) The comptroller shall establish and coordinate the enterprise resource planning advisory council. The council is composed of:

(1) representatives of the Department of Information Resources, appointed by the executive director of the department;

(2) representatives of the Health and Human Services Commission, appointed by the executive commissioner of the commission;

(3) representatives of the Information Technology Council for Higher Education, nominated by the members of the council;

(4) representatives of the comptroller's office, appointed by the comptroller; and

(5) representatives of two state agencies selected by the comptroller that have fewer than 100 employees, appointed by the executive head of each agency.

(b) The council shall develop a plan that contains key requirements, constraints, and alternative approaches for the comptroller's implementation of enterprise resource planning standards, including related core functionality and business process reengineering requirements.

(c) Before each legislative session, the comptroller shall report to the legislature concerning the status of the implementation of the council's plan under Subsection (b) regarding enterprise resource planning in this state, including any planned modifications to and upgrade requirements of statewide and agency systems and the financial impact of the modifications and upgrade requirements.

(d) A member of the council receives no additional compensation for serving on the council and may not be reimbursed for travel or other expenses incurred while conducting the business of the council.

(e) Except as provided by Subsection (d), Chapter 2110 applies to the council.

SECTION 6. Section 2055.104, Government Code, is repealed.

SECTION 7. The comptroller is not required to comply with Section 2101.031(c), Government Code, as added by this Act, before January 1, 2008.

SECTION 8. This Act takes effect September 1, 2007.

**HB 724 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative McClendon called up with senate amendments for consideration at this time,

**HB 724.** A bill to be entitled An Act relating to resolution of certain disputes regarding workers' compensation claims for medical benefits.

Representative McClendon moved to concur in the senate amendments to **HB 724.**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1686): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; 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; Kruse; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Coleman; Pierson; Woolley.

**HB 724 - STATEMENT OF LEGISLATIVE INTENT**

**SB 929** was added to **HB 724** in the senate. I have worked closely with Representative Taylor and Senator Jackson on this amendment and know that this final language was negotiated among all the stakeholders. It is my intent that the addition of **SB 929** will allow healthcare insurers, or their authorized representative or assignee, to seek recovery and enter into dispute resolution over a subclaim for payments made for medical treatments paid for by the healthcare insurer, which was related to a compensable injury and the healthcare insurer believes should be the responsibility of the workers' compensation carrier. It is my intent that the workers' compensation carrier be responsible for reimbursing

the healthcare insurer for any liability which the workers' compensation carrier has under the Texas Workers' Compensation Act if the injury and treatment has been determined to be related to an established compensable injury.

Solomons

### Senate Committee Substitute

**CSHB 724**, A bill to be entitled An Act relating to workers' compensation claims for certain medical benefits, death benefits, and burial benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 413.031, Labor Code, is amended by amending Subsection (k) and adding Subsections (k-1) and (k-2) to read as follows:

(k) A ~~[Except as provided by Subsection (l), a]~~ party to a medical dispute, other than a medical dispute regarding spinal surgery subject to Subsection (l) and a dispute subject to Section 413.0311, that remains unresolved after a review of the medical service under this section is entitled to a hearing. A hearing under this subsection shall be conducted by the State Office of Administrative Hearings not later than the 60th day after the date on which the party notifies the division of the request for a hearing. The hearing shall be conducted in the manner provided for a contested case under Chapter 2001, Government Code.

(k-1) A party who has exhausted all administrative remedies under Subsection (k) and who is aggrieved by a final decision of the State Office of Administrative Hearings may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code.

(k-2) The division and the department are not considered to be parties to the medical dispute for purposes of Subsections (k) and (k-1) ~~[this subsection. Judicial review under this subsection shall be conducted in the manner provided for judicial review of contested cases under Subchapter G, Chapter 2001, Government Code].~~

SECTION 2. Subchapter C, Chapter 413, Labor Code, is amended by adding Section 413.0311 to read as follows:

Sec. 413.0311. REVIEW OF CERTAIN MEDICAL DISPUTES; CONTESTED CASE HEARING. (a) This section applies only to the following medical disputes that remain unresolved after any applicable review under Sections 413.031(b) through (i):

(1) a medical fee dispute in which the amount of reimbursement sought by the requestor in its request for medical dispute resolution does not exceed \$2,000;

(2) an appeal of an independent review organization decision regarding determination of the retrospective medical necessity for a health care service for which the amount billed does not exceed \$3,000; and

(3) an appeal of an independent review organization decision regarding determination of the concurrent or prospective medical necessity for a health care service.

(b) A party to a medical dispute described by Subsection (a) is entitled to a contested case hearing. A contested case hearing under this section shall be conducted by a hearings officer in the manner provided for contested case hearings under Subchapter D, Chapter 410. Notwithstanding Section 410.024, a benefit review conference is not a prerequisite to a contested case hearing under this section.

(c) The decision of a hearings officer under this section is final in the absence of a timely appeal by a party for judicial review under Subsection (d).

(d) A party who has exhausted all administrative remedies under Section 413.031 and this section and who is aggrieved by a final decision of the hearings officer under Subsection (c) may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code.

(e) The division and the department are not considered to be parties to the medical dispute for purposes of this section.

SECTION 3. Section 402.073(b), Labor Code, is amended to read as follows:

(b) In a case in which a hearing is conducted by the State Office of Administrative Hearings under Section 413.031, 413.055, or 415.034, the administrative law judge who conducts the hearing for the State Office of Administrative Hearings shall enter the final decision in the case after completion of the hearing.

SECTION 4. Section 408.182, Labor Code, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1) If there is no eligible spouse, no eligible child, and no eligible grandchild, and there are no surviving dependents of the deceased employee who are parents, siblings, or grandparents of the deceased, the death benefits shall be paid in equal shares to surviving eligible parents of the deceased. A payment of death benefits made under this subsection may not exceed one payment per household.

(d-2) Except as otherwise provided by this subsection, to be eligible to receive death benefits under Subsection (d-1), an eligible parent must file with the division a claim for those benefits not later than the first anniversary of the date of the injured employee's death from the compensable injury. The commissioner may extend the time for filing a claim under this subsection only if the eligible parent submits proof satisfactory to the commissioner of a compelling reason for the delay.

SECTION 5. Section 408.182(f), Labor Code, is amended by adding Subdivision (4) to read as follows:

(4) "Eligible parent" means the mother or the father of a deceased employee, including an adoptive parent or a stepparent, who receives burial benefits under Section 408.186. The term does not include a parent whose parental rights have been terminated.

SECTION 6. Section 408.183, Labor Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) An eligible parent who is not a surviving dependent of the deceased employee is entitled to receive death benefits until the earlier of:

(1) the date the eligible parent dies; or

(2) the date of the expiration of 104 weeks of death benefit payments.

SECTION 7. The change in law made by this Act applies to workers' compensation medical disputes described by Section 413.031, Labor Code, as amended by this Act and Section 413.0311, Labor Code, as added by this Act:

(1) that are pending for adjudication by the division of workers' compensation of the Texas Department of Insurance on or after the effective date of this Act;

(2) that may be remanded to the division of workers' compensation of the Texas Department of Insurance on or after the effective date of this Act; or

(3) that may arise on or after the effective date of this Act.

SECTION 8. Chapter 408, Labor Code, as amended by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2007.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 724** as follows:

(1) On page 2, line 24, in SECTION 4, in the new Subsection (d-1) added to Section 408.182, Labor Code, after "household" and the period, insert "and may not exceed 104 weeks".

(2) On page 2, line 29, in SECTION 4, in the new Subsection (d-2), between "compensable injury." and "The commissioner may", insert "The claim must designate all eligible parents and necessary information for payment to the eligible parents. The insurance carrier is not liable for payment to any eligible parent not designated on the claim."

(3) On page \_\_\_\_, line \_\_\_\_, add the following SECTION, appropriately numbered and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Amend Section 408.182(e) as follows:

(e) If an employee is not survived by legal beneficiaries or eligible parents, the death benefits shall be paid to the subsequent injury fund under Section 403.077.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 724**, Senate committee printing, by inserting the following appropriately numbered SECTIONS in the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 408.027(d), Labor Code, is amended to read as follows:

(d) If an insurance carrier contests the compensability of an injury and the injury is determined not to be compensable, the carrier may recover the amounts paid for health care services from the employee's accident or health benefit plan, or any other person who may be obligated for the cost of the health care services. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which a workers' compensation insurance carrier denies compensability, and the injury is later determined to be compensable, the accident or health insurance carrier or other person may recover the amounts paid for such services from the workers' compensation insurance carrier. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which the workers' compensation insurance carrier or the employer has not disputed compensability, the accident or health insurance carrier or other person may recover reimbursement from the insurance carrier in the manner described by Section 409.009 or 409.0091, as applicable.

SECTION \_\_\_\_\_. Subchapter A, Chapter 409, Labor Code, is amended by adding Section 409.0091 to read as follows:

Sec. 409.0091. REIMBURSEMENT PROCEDURES FOR CERTAIN ENTITIES. (a) In this section, "health care insurer" means an insurance carrier and an authorized representative of an insurance carrier, as described by Section 402.084(c-1).

(b) This section applies only to a request for reimbursement by a health care insurer.

(c) Health care paid by a health care insurer may be reimbursable as a medical benefit.

(d) Except as provided by Subsection (e), this section does not prohibit or limit a substantive defense by a workers' compensation insurance carrier that the health care paid for by the health care insurer was not a medical benefit or not a correct payment. A subclaimant may not be reimbursed for payment for any health care that was previously denied by a workers' compensation insurance carrier under:

(1) a preauthorization review of the specific service or medical procedure; or

(2) a medical necessity review that determined the service was not medically necessary for the treatment of a compensable injury.

(e) It is not a defense to a subclaim by a health care insurer that:

(1) the subclaimant has not sought reimbursement from a health care provider or the subclaimant's insured;

(2) the subclaimant or the health care provider did not request preauthorization under Section 413.014 or rules adopted under that section; or

(3) the health care provider did not bill the workers' compensation insurance carrier, as provided by Section 408.027, before the 95th day after the date the health care for which the subclaimant paid was provided.

(f) Subject to the time limits under Subsection (n), the health care insurer shall provide, with any reimbursement request, the tax identification number of the health care insurer and the following to the workers' compensation insurance carrier, in a form prescribed by the division:

(1) information identifying the workers' compensation case, including:

(A) the division claim number;

(B) the name of the patient or claimant;

(C) the social security number of the patient or claimant; and

(D) the date of the injury; and

(2) information describing the health care paid by the health care insurer, including:

(A) the name of the health care provider;

(B) the tax identification number of the health care provider;

(C) the date of service;

(D) the place of service;

(E) the ICD-9 code;

(F) the CPT, HCPCS, NDC, or revenue code;

(G) the amount charged by the health care provider; and

(H) the amount paid by the health care insurer.

(g) The workers' compensation insurance carrier shall reduce the amount of the reimbursable subclaim by any payments the workers' compensation insurance carrier previously made to the same health care provider for the provision of the

same health care on the same dates of service. In making such a reduction in reimbursement to the subclaimant, the workers' compensation insurance carrier shall provide evidence of the previous payments made to the provider.

(h) For each medical benefit paid, the workers' compensation insurance carrier shall pay to the health care insurer the lesser of the amount payable under the applicable fee guideline as of the date of service or the actual amount paid by the health care insurer. In the absence of a fee guideline for a specific service paid, the amount per service paid by the health care insurer shall be considered in determining a fair and reasonable payment under rules under this subtitle defining fair and reasonable medical reimbursement. The health care insurer may not recover interest as a part of the subclaim.

(i) On receipt of a request for reimbursement under this section, the workers' compensation insurance carrier shall respond to the request in writing not later than the 90th day after the date on which the request is received. If additional information is requested under Subsection (j), the workers' compensation insurance carrier shall respond not later than the 120th day unless the time is extended under Subsection (j).

(j) If the workers' compensation insurance carrier requires additional information from the health care insurer, the workers' compensation insurance carrier shall send notice to the health care insurer requesting the additional information. The health care insurer shall have 30 days to provide the requested information. The workers' compensation insurance carrier and the health care insurer may establish additional periods for compliance with this subsection by written mutual agreement.

(k) Unless the parties have agreed to an extension of time under Subsection (j), the health care insurer must file a written subclaim under this section not later than the 120th day after:

(1) the workers' compensation insurance carrier fails to respond to a request for reimbursement; or

(2) receipt of the workers' compensation insurance carrier's notice of denial to pay or reduction in reimbursement.

(l) Any dispute that arises from a failure to respond to or a reduction or denial of a request for reimbursement of services that form the basis of the subclaim must go through the appropriate dispute resolution process under this subtitle and division rules. The commissioner of insurance and the commissioner of workers' compensation shall modify rules under this subtitle as necessary to allow the health care insurer access as a subclaimant to the appropriate dispute resolution process. Rules adopted or amended by the commissioner of insurance and the commissioner of workers' compensation must recognize the status of a subclaimant as a party to the dispute. Rules modified or adopted under this section should ensure that the workers' compensation insurance carrier is not penalized, including not being held responsible for costs of obtaining the additional information, if the workers' compensation insurance carrier denies payment in order to move to dispute resolution to obtain additional information to process the request.

(m) In a dispute filed under Chapter 410 that arises from a subclaim under this section, a hearing officer may issue an order regarding compensability or eligibility for benefits and order the workers' compensation insurance carrier to reimburse health care services paid by the health care insurer as appropriate under

this subtitle. Any dispute over the amount of medical benefits owed under this section, including medical necessity issues, shall be determined by medical dispute resolution under Sections 413.031 and 413.032.

(n) Except as provided by Subsection (s), a health care insurer must file a request for reimbursement with the workers' compensation insurance carrier not later than six months after the date on which the health care insurer received information under Section 402.084(c-3) and not later than 18 months after the health care insurer paid for the health care service.

(o) The commissioner and the commissioner of insurance shall amend or adopt rules to specify the process by which an employee who has paid for health care services described by Section 408.027(d) may seek reimbursement.

(p) Until September 1, 2011, a workers' compensation insurance carrier is exempt from any department and division data reporting requirements affected by a lack of information caused by reimbursement requests or subclaims under this section. If data reporting is required after that date, the requirement is prospective only and may not require any data to be reported between September 1, 2007, and the date required reporting is reinstated. The department and the division may make legislative recommendations to the 82nd Legislature for the collection of reimbursement request and subclaim data.

(q) An action or failure to act by a workers' compensation insurance carrier under this section may not serve as the basis for an examination or administrative action by the department or the division, or for any cause of action by any person, except for judicial review under this subtitle.

(r) The commissioner of insurance and the commissioner of workers' compensation may adopt additional rules to clarify the processes required by, fulfill the purpose of, or assist the parties in the proper adjudication of subclaims under this section.

(s) On or after September 1, 2007, from information provided to a health care insurer before January 1, 2007, under Section 402.084(c-3), the health care insurer may file not later than March 1, 2008:

(1) a subclaim with the division under Subsection (l) if a request for reimbursement has been presented and denied by a workers' compensation insurance carrier; or

(2) a request for reimbursement under Subsection (f) if a request for reimbursement has not previously been presented and denied by the workers' compensation insurance carrier.

SECTION \_\_\_\_. The change in law made by this Act applies only to a subclaim based on a compensable injury that occurred on or after September 1, 2007, and to reimbursement requests and subclaims pursuant to Section 409.0091(s), Labor Code, as added by this Act. The changes made by this Act apply only to subclaims based on an injury that has not been denied for compensability or that has been determined by the division to be compensable.

SECTION \_\_\_\_. The commissioner of workers' compensation shall prescribe any forms required under Section 409.0091, Labor Code, as added by this Act, not later than September 1, 2007.

SECTION \_\_\_\_. The commissioner of workers' compensation and the commissioner of insurance shall adopt rules as required by this Act not later than December 1, 2007.

**HB 2328 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Woolley called up with senate amendments for consideration at this time,

**HB 2328**, A bill to be entitled An Act relating to the offenses of cruelty to livestock and nonlivestock animals.

Representative Woolley moved to concur in the senate amendments to **HB 2328**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1687): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Giddings; Moreno; Phillips.

**STATEMENT OF VOTE**

When Record No. 1687 was taken, my vote failed to register. I would have voted yes.

Giddings

**Senate Committee Substitute**

**CSHB 2328**, A bill to be entitled An Act relating to the offenses of cruelty to livestock and nonlivestock animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 42.09, Penal Code, is amended to read as follows:

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

- (1) tortures a livestock ~~an~~ animal;

(2) fails unreasonably to provide necessary food, water, or care~~[-or shelter]~~ for a livestock ~~[an]~~ animal in the person's custody;

(3) abandons unreasonably a livestock ~~[an]~~ animal in the person's custody;

(4) transports or confines an animal in a cruel manner;

(5) ~~[kills, seriously injures, or]~~ administers poison to a livestock ~~[an]~~ animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092 ~~[causes one animal to fight with another]~~;

(7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;

(8) trips a horse;

~~[(9) injures an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;]~~ or

(9) ~~[(10)]~~ seriously overworks an animal.

(b) In ~~[It is a defense to prosecution under this section that the actor was engaged in bona fide experimentation for scientific research.~~

~~[(c) For purposes of]~~ this section:

(1) "Abandon" includes abandoning a livestock ~~[an]~~ animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) ~~["Animal" means a domesticated living creature and wild living creature previously captured. "Animal" does not include an uncaptured wild creature or a wild creature whose capture was accomplished by conduct at issue under this section.~~

~~[(3)]~~ "Cruel manner" includes a manner that causes or permits unnecessary ~~[unjustified]~~ or unjustifiable ~~[unwarranted]~~ pain or suffering.

(3) ~~[(4)]~~ "Custody" includes responsibility for the health, safety, and welfare of a livestock ~~[an]~~ animal subject to the person's care and control, regardless of ownership of the livestock animal.

(4) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5) "Livestock animal" means:

(A) cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B) a horse, pony, mule, donkey, or hinny;

(C) native or nonnative hoofstock raised under agriculture practices; or

(D) native or nonnative fowl commonly raised under agricultural practices.

(6) ~~[(5)]~~ "Necessary food, water, or care~~[-or shelter]~~" includes food, water, or care~~[-or shelter]~~ provided to the extent required to maintain the livestock animal in a state of good health.

(7) "Torture" includes any act that causes unnecessary or unjustifiable pain or suffering.

(8) ~~[(6)]~~ "Trip" means to use an object to cause a horse to fall or lose its balance.

(c) ~~(d)~~ An offense under Subsection (a)(2), (3), (4), or (9)~~[, or (10)]~~ is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

~~(d) (e) It is a defense to prosecution under Subsection (a)(5) that the animal was discovered on the person's property in the act of or immediately after injuring or killing the person's goats, sheep, cattle, horses, swine, or poultry and that the person killed or injured the animal at the time of this discovery.~~

~~(f)~~ It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) ~~(g)~~ It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research ~~[the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code].~~

(f) ~~(h)~~ It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring ~~[use of an animal if that use occurs]~~ solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture ~~[farming]~~ practice involving livestock animals.

~~(i) An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section.]~~

SECTION 2. Chapter 42, Penal Code, is amended by adding Section 42.092 to read as follows:

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unnecessary or unjustifiable pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unnecessary or unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or  
(2) animal husbandry or agriculture practice involving livestock animals.

SECTION 3. Section 54.0407, Family Code, is amended to read as follows:

Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

SECTION 4. Sections 821.023(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

SECTION 5. Section 801.3585, Occupations Code, is amended to read as follows:

Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY; IMMUNITY. A veterinarian who in good faith and in the normal course of business reports to the appropriate governmental entity a suspected incident of animal cruelty under Section 42.09 or 42.092, Penal Code, is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident.

SECTION 6. Section 1702.283, Occupations Code, is amended to read as follows:

Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code:

(1) is ineligible for a license as a guard dog company or for registration as a dog trainer; and

(2) may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.

SECTION 7. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 8. This Act does not bar, suspend, create, or otherwise affect a right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil suit for conduct this Act defines as an offense, and the civil injury is not merged in the offense.

SECTION 9. This Act takes effect September 1, 2007.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 2328** as follows:

In Section 1 of the bill, amend Sec. 42.09(a)(4) as follows:

(4) transports or confines a livestock ~~an~~ animal in a cruel and unusual manner;

In Section 1 of the bill, amend Sec. 42.09(a)(9) as follows:

(9) ~~[(10)]~~ seriously overworks a livestock ~~an~~ animal.

In Section 1 of the bill, amend Sec. ~~42.09(b)(2)~~ as follows:

(2) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

In Section 1 of the bill, amend Sec. 42.09(b)(7) as follows:

(7) "Torture" includes any act that causes unjustifiable pain or suffering.

In Section 1 of the bill, amend Sec. 42.09(b)(9) in Section 1 of the bill, add new subsection (g) as follows:

(g) This section does not create a civil cause of action for damages or enforcement of this section.

In Section 2 of the bill, amend Sec. 42.092(a)(3) as follows:

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

In Section 2 of the bill, amend Sec. 42.092(a)(8) as follows:

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

In Section 2 of the bill, add a new subsection (g) as follows:

(g) This section does not create a civil cause of action for damages or enforcement of the section.

In Section 3 of the bill, delete SECTION 8 and renumber subsequent sections accordingly.

## **HB 2548 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative T. Smith called up with senate amendments for consideration at this time,

**HB 2548**, A bill to be entitled An Act relating to coverage limitations in health benefit plans.

Representative T. Smith moved to concur in the senate amendments to **HB 2548**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1688): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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 Tourelles; 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; Moreno; 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; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Rodriguez.

**STATEMENT OF VOTE**

When Record No. 1688 was taken, I was in the house but away from my desk. I would have voted yes.

Rodriguez

**Senate Committee Substitute**

**CSHB 2548**, A bill to be entitled An Act relating to coverage limitations in health benefit plans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.154(b), Insurance Code, is amended to read as follows:

(b) A preexisting condition provision in an individual accident and health insurance policy may not apply to an individual[;

~~[(4)]~~ who was continuously covered for an aggregate period of 18 months by creditable coverage that was in effect up to a date not more than 63 days before the effective date of the individual coverage, excluding any waiting period [~~;~~ and

~~[(2) whose most recent creditable coverage was under:~~

~~[(A) a group health plan;~~

~~[(B) a governmental plan; or~~

~~[(C) a church plan].~~

SECTION 2. Section 1506.153, Insurance Code, as amended by Chapters 728 and 824, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 1506.153. INELIGIBILITY FOR COVERAGE. (a) Notwithstanding Sections 1506.152(a)-(c) [~~+506.152(a)-(d)]~~, an individual is not eligible for coverage from the pool if:

(1) on the date pool coverage is to take effect, the individual has health benefit plan coverage from a health benefit plan issuer or health benefit arrangement in effect, except as provided by Section 1506.152(a)(3)(E);

(2) at the time the individual applies to the pool, except as provided in Subsection (b), the individual is eligible for other health care benefits, including benefits from the continuation of coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.), as amended (COBRA), other than:

(A) coverage, including COBRA or other continuation coverage or conversion coverage, maintained for any preexisting condition waiting period under a pool policy;

(B) employer group coverage conditioned by a limitation of the kind described by Section 1506.152(a)(3)(A) or (C); or

(C) individual coverage conditioned by a limitation described by Section 1506.152(a)(3)(C) or (D);

(3) within 12 months before the date the individual applies to the pool, the individual terminated coverage in the pool, unless the individual demonstrates a good faith reason for the termination;

(4) the individual is confined in a county jail or imprisoned in a state or federal prison;

(5) any of the individual's premiums are paid for or reimbursed under a government-sponsored program or by a government agency or health care provider, other than as an otherwise qualifying full-time employee of a government agency or health care provider or as a dependent of such an employee;

(6) the individual's prior coverage with the pool was terminated:

(A) during the 12-month period preceding the date of application for nonpayment of premiums; or

(B) for fraud; or

(7) the individual is eligible for health benefit plan coverage provided in connection with a policy, plan, or program paid for or sponsored by an employer, even though the employer coverage is declined. This subdivision does not apply to an individual who is a part-time employee eligible to participate in an employer plan that provides health benefit coverage:

(A) that is more limited or restricted than coverage with the pool;

and

(B) for which there is no employer contribution to the premium, either directly or indirectly.

(b) An individual eligible for benefits from the continuation of coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.), as amended (COBRA), who did not elect continuation of coverage during the election period, or whose elected continuation of coverage lapsed or was cancelled without reinstatement, is eligible for pool coverage. Eligibility under this subsection is subject to a 180-day exclusion of coverage under Section 1506.155(a-1).

SECTION 3. Section 1506.155, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Except as provided by Section 1506.056, pool coverage for an individual eligible pursuant to Section 1506.153(b) excludes charges or expenses incurred before the expiration of 180 days from the effective date of coverage with regard to any condition for which:

(1) the existence of symptoms would cause an ordinarily prudent person to seek diagnosis, care, or treatment within the six-month period preceding the effective date of coverage; or

(2) medical advice, care, or treatment was recommended or received during the six-month period preceding the effective date of coverage.

SECTION 4. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

**HB 3060 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Peña called up with senate amendments for consideration at this time,

**HB 3060**, A bill to be entitled An Act relating to issuance by a court of a *capias* or a *capias pro fine*.

Representative Peña moved to concur in the senate amendments to **HB 3060**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1689): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Kruse; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Moreno.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend the **HB 3060** (Senate committee report) by adding the following and renumbering accordingly:

SECTION \_\_\_\_\_. Subsection (a), Article 102.011, Code of Criminal Procedure, is amended to read as follows:

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

(1) \$5 for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$50 for executing or processing an issued arrest warrant or *capias*, with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or capias, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or capias, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or capias, if:

(i) the arrest warrant or capias was not executed; or

(ii) the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

(3) \$5 for summoning a witness;

(4) \$35 for serving a writ not otherwise listed in this article;

(5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) \$5 for commitment or release;

(7) \$5 for summoning a jury, if a jury is summoned; and

(8) \$8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

SECTION \_\_\_\_\_. The change in law made by this Act applies only to a fee imposed for the execution or processing of a warrant or capias issued for an offense committed on or after the effective date of this Act. A fee imposed for the execution or processing of a warrant or capias issued for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

#### **SB 759 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Parker, the house granted the request of the senate for the appointment of a conference committee on **SB 759**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 759**: Parker, chair; Hughes, S. King, Pierson, and Naishtat.

#### **SB 222 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Thompson, the house granted the request of the senate for the appointment of a conference committee on **SB 222**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 222**: Thompson, chair; Castro, Giddings, C. Howard, and T. Smith.

#### **SB 1879 - VOTE RECONSIDERED**

Representative Hamilton moved to reconsider the vote by which **SB 1879**, as amended, was passed.

The motion to reconsider prevailed.

#### **SB 1879 ON THIRD READING (Hamilton - House Sponsor)**

**SB 1879**, A bill to be entitled An Act relating to the regulation of controlled substances.

**Amendment No. 7 - Vote Reconsidered**

Representative Hamilton moved to reconsider the vote by which Amendment No. 7 was adopted.

The motion to reconsider prevailed.

Amendment No. 7 was withdrawn.

**Amendment No. 8**

Representative McClendon offered the following amendment to **SB 1879**:

Amend **SB 1879**, in third reading, by adding the following SECTIONS to the bill, and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 107, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PAIN TREATMENT REVIEW COMMITTEE

Sec. 107.201. PAIN TREATMENT REVIEW COMMITTEE. (a) The following individuals shall be appointed as a review committee on pain treatment:

(1) the attorney general or the attorney general's designee;  
(2) a physician who practices at a public hospital in this state;  
(3) a physician who practices at a private hospital in this state;  
(4) a physician who practices in this state as a psychiatrist specializing in the treatment of addictive diseases;

(5) a probate court judge licensed to practice law in this state;  
(6) a member of the governing board of the American Cancer Society, Texas Division, or the member's designee;

(7) a member of the governing board of the Texas Medical Association or the member's designee;

(8) a member of the governing board of the Texas Nurses Association or the member's designee;

(9) an officer of a public hospital in this state who is a member of the governing board of the Texas Hospital Association or the member's designee;

(10) an officer of a private hospital in this state who is a member of the governing board of the Texas Hospital Association or the member's designee; and

(11) a public member who is a resident of this state.  
(b) The lieutenant governor and the speaker of the house of representatives shall each appoint five of the members described by Subsections (a)(2) through (11).

(c) The following individuals serve on the committee as nonvoting resource members and are appointed by the executive director of the agency the member represents:

(1) a pharmacist member of the Texas State Board of Pharmacy;  
(2) a physician member of the Texas Medical Board;  
(3) a nurse member of the Board of Nurse Examiners;  
(4) a representative of the Department of Aging and Disability Services; and

(5) a representative of the narcotics regulatory programs of the Department of Public Safety.

(d) The committee shall study the relevant provisions in the laws of this state that relate to the administration of prescription medication, controlled substances, and the needs of patients for effective pain control and management.

The committee shall examine how the following statutes affect public health needs, the professional medical community, and persons affected by acute, chronic, or end-of-life pain:

(1) this chapter;

(2) Subtitles B, E, I, and J of this title; and

(3) Chapter 481, Health and Safety Code.

(e) The committee shall meet at least once every three months.

(f) Not later than September 1, 2008, the committee shall report any changes recommended to the statutes examined under Subsection (d) to the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees in the senate and the house of representatives that have jurisdiction over the issues studied by the committee.

(g) This section expires July 1, 2009.

Amendment No. 8 was adopted.

#### **Amendment No. 6 - Vote Reconsidered**

Representative Hamilton moved to reconsider the vote by which Amendment No. 6 was adopted.

The motion to reconsider prevailed.

#### **Amendment No. 6 - Point of Order**

Representative Riddle raised a point of order against further consideration of Amendment No. 6 under Rule 11, Section 2 and Rule 8, Section 3 of the House Rules and Article III, Section 35a of the Texas Constitution on the grounds that the amendment is not germane to the bill and that it violates the one subject rule.

The speaker sustained the point of order.

The ruling precluded further consideration of Amendment No. 6.

A record vote was requested.

**SB 1879**, as amended, was passed by (Record 1690): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Christian; Cohen; Coleman; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClelland; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; 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; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Allen; Chisum; Cook, B.; Eiland; Harless; Jones; Keffer; Martinez Fischer; Morrison.

### STATEMENTS OF VOTE

When Record No. 1690 was taken, I was in the house but away from my desk. I would have voted yes.

B. Cook

When Record No. 1690 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

When Record No. 1690 was taken, I was in the house but away from my desk. I would have voted yes.

Harless

### HB 3392 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Guillen called up with senate amendments for consideration at this time,

**HB 3392**, A bill to be entitled An Act relating to member contributions and to the resumption of employment by certain retirees within the Texas Municipal Retirement System.

Representative Guillen moved to discharge the conferees and concur in the senate amendments to **HB 3392**.

A record vote was requested.

The motion to discharge conferees and concur in senate amendments prevailed by (Record 1691): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; 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; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro.

Absent — Keffer; Orr; Otto; Puente.

### Senate Committee Substitute

**CSHB 3392**, A bill to be entitled An Act relating to the resumption of employment by certain retirees within the Texas Municipal Retirement System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 852.108(a) and (b), Government Code, are amended to read as follows:

(a) In this section and Sections 852.1085 and ~~[Section]~~ 852.109, a person's reemploying municipality is the municipality for which the person was performing creditable service at the time of the person's retirement under this subtitle.

(b) Except as provided by Section 852.1085, a ~~[A]~~ person who has retired with a service retirement benefit under this subtitle and later becomes an employee of the person's reemploying municipality also becomes a member of the system on the date of employment, but credits and benefits allowable to the person under this subtitle are limited as provided by this section.

SECTION 2. Subchapter B, Chapter 852, Government Code, is amended by adding Section 852.1085 to read as follows:

Sec. 852.1085. RESUMPTION OF SERVICE WITH SAME EMPLOYER BY CERTAIN RETIREES. Notwithstanding Section 852.108, a person who retired because the department in the municipality in which the person worked was privatized and who later resumes employment in the same department or a successor department in the person's reemploying municipality again becomes a member of the retirement system and the person's retirement annuity is not suspended in the same manner provided by Section 852.109 for a person who resumes employment with a different municipality.

SECTION 3. (a) A person who resumed employment after retirement and whose annuity was suspended under Section 852.108, Government Code, as that section existed before amendment by this Act, is entitled to the resumption of monthly annuity payments if the person meets the requirements of Section 852.1085, Government Code, as added by this Act.

(b) The Texas Municipal Retirement System shall resume making monthly annuity payments to a person described by Subsection (a) of this section on the first payment date occurring on or after the effective date of this Act.

(c) A person who is entitled to the resumption of monthly annuity payments under this section is not entitled to recover payment for annuity payments not made during the period the person's annuity was suspended under Section 852.108, Government Code, as that section existed before amendment by this Act.

SECTION 4. This Act takes effect immediately if it 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, this Act takes effect September 1, 2007.

### COMMITTEES GRANTED PERMISSION TO MEET

Pursuant to House Rule 4, Section 9, Representative Hartnett requested permission for all committees and subcommittees to meet while the house is in session, upon adjournment today, pending the receipt of senate messages, pursuant to their committee postings.

Permission to meet was granted.

(Taylor in the chair)

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary, upon adjournment today, pending the receipt of senate messages, 3W.9, for a formal meeting, to consider **HCR 225**.

**PROVIDING FOR ADJOURNMENT**

Representative Hartnett moved that, pending the receipt of senate messages, the house adjourn until 9:15 a.m. tomorrow.

The motion prevailed.

(Corte in the chair)

**ADJOURNMENT**

In accordance with a previous motion, the house, at 9:17 p.m., adjourned until 9:15 a.m. tomorrow.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

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

**House List No. 44**

**HB 14, HB 41, HB 52, HB 56, HB 120, HB 149, HB 198, HB 264, HB 308, HB 323, HB 387, HB 401, HB 434, HB 462, HB 538, HB 587, HB 590, HB 618, HB 629, HB 643, HB 713, HB 738, HB 764, HB 842, HB 868, HB 887, HB 891, HB 922, HB 948, HB 963, HB 1005, HB 1049, HB 1052, HB 1082, HB 1179, HB 1187, HB 1188, HB 1204, HB 1318, HB 1346, HB 1373, HB 1418, HB 1561, HB 1572, HB 1585, HB 1586, HB 1634, HB 1678, HB 1679, HB 1719, HB 1734, HB 1764, HB 1788, HB 1789, HB 1839, HB 1930, HB 2010, HB 2015, HB 2042, HB 2132, HB 2171, HB 2216, HB 2235, HB 2293, HB 2313, HB 2341, HB 2348, HB 2350, HB 2359, HB 2371, HB 2398, HB 2444, HB 2462, HB 2471, HB 2489, HB 2503, HB 2504, HB 2518, HB 2580, HB 2622, HB 2664, HB 2691, HB 2718, HB 2754, HB 2765, HB 2796, HB 2834, HB 2882, HB 2910, HB 2945, HB 2983, HB 2992, HB 3092, HB 3123, HB 3132, HB 3135, HB 3143, HB 3325, HB 3410, HB 3492, HB 3514, HB 3537, HB 3955, HB 3972, HB 3995, HB 4044, HCR 67, HCR 215, HCR 216, HCR 217, HCR 246, HJR 103**

**Senate List No. 46**

**SB 143, SB 204, SB 254, SB 255, SB 323, SB 324, SB 350, SB 361, SB 382, SB 387, SB 426, SB 450, SB 545, SB 660, SB 688, SB 723, SB 813, SB 914, SB 943, SB 976, SB 1097, SB 1153, SB 1263, SB 1424, SB 1434, SB 1461, SB 1533, SB 1670, SB 1735, SB 1781, SB 1828, SB 2016**

**Senate List No. 47****SCR 85, SJR 44, SJR 57, SJR 64****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  
 Wednesday, May 23, 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:

**HB 316** Miller SPONSOR: Fraser  
 Relating to the ad valorem taxation of certain property that is part of certain public transportation facilities or part of certain rail facilities.

**HB 448** Phillips SPONSOR: Harris  
 Relating to the calculation of child support obligations.

**HB 472** Solomons SPONSOR: Van de Putte  
 Relating to the regulation of third-party administrators, including administrators with delegated duties in the workers' compensation system of this state; providing penalties.  
 (Amended)

**HB 473** Solomons SPONSOR: Van de Putte  
 Relating to the application of certain fee guidelines to health care provided under the workers' compensation system.  
 (Amended)

**HB 544** Strama SPONSOR: Watson  
 Relating to reduced tuition and fees for certain junior college district students who reside outside of the district.

**HB 555** Phillips SPONSOR: Harris  
 Relating to the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship.

**HB 568** Puente SPONSOR: Harris  
 Relating to the requirements for an affidavit of voluntary relinquishment of parental rights.  
 (Amended)

**HB 1250** Howard, Charlie SPONSOR: Patrick, Dan  
 Relating to prohibiting discrimination based on a student's secondary school in awarding certain financial aid for higher education.  
 (Amended)

- HB 1314** Bailey SPONSOR: Jackson, Mike  
Relating to the regulation and financing of water and sewer utility systems in certain counties; providing a civil penalty.  
(Committee Substitute)
- HB 1330** Brown, Fred SPONSOR: Ogden  
Relating to the pilot program providing for reduced undergraduate tuition during a term of the summer session at Texas A&M University.
- HB 1391** Turner SPONSOR: Whitmire  
Relating to the provision of water and utility service.  
(Committee Substitute)
- HB 1473** Turner SPONSOR: Whitmire  
Relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.  
(Committee Substitute/Amended)
- HB 1495** Callegari SPONSOR: Nichols  
Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.  
(Amended)
- HB 1519** Smith, Todd SPONSOR: Carona  
Relating to including within the offense of barratry and solicitation of professional employment certain solicitations made during certain periods.
- HB 1637** Menendez SPONSOR: Lucio  
Relating to the operation and administration of the Texas First-Time Homebuyer Program by the Texas Department of Housing and Community Affairs and to certain down payment assistance under that program.  
(Amended)
- HB 1656** Puente SPONSOR: Averitt  
Relating to regulation of irrigation systems and irrigators.
- HB 1680** Swinford SPONSOR: Seliger  
Relating to the required payment of taxes by property owners who appeal certain ad valorem tax determinations.  
(Amended)
- HB 2072** Guillen SPONSOR: Zaffirini  
Relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.  
(Amended)
- HB 2093** Hill SPONSOR: Carona  
Relating to the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties.  
(Committee Substitute/Amended)
- HB 2094** Hill SPONSOR: Carona  
Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.  
(Committee Substitute/Amended)
- HB 2210** Bolton SPONSOR: Ellis

Relating to law enforcement reports concerning the commission of certain offenses and the provision of certain information in those reports to victims of those offenses.

(Committee Substitute)

**HB 2285** Chisum SPONSOR: Seliger  
Relating to the renewal period for a license or registration related to radioactive materials and other sources of radiation issued by the Department of State Health Services.

(Amended)

**HB 2291** Farias SPONSOR: Uresti  
Relating to a study of victim-offender mediation programs for juvenile offenders.

(Amended)

**HB 2482** Cook, Robby SPONSOR: Estes  
Relating to the requirements regarding persons who service or maintain on-site sewage disposal systems; imposing an administrative penalty.

(Committee Substitute)

**HB 2498** Gonzalez Toureilles SPONSOR: Zaffirini  
Relating to hazardous duty pay for correctional officers employed by the Texas Department of Criminal Justice.

(Amended)

**HB 2502** Gonzalez Toureilles SPONSOR: Hinojosa  
Relating to the composition of the Jim Wells County Juvenile Board.

(Amended)

**HB 2563** Hancock SPONSOR: Van de Putte  
Relating to the powers and duties of the boards of trustees and superintendents of independent school districts and of regional education service centers.

(Committee Substitute)

**HB 2564** Hancock SPONSOR: Wentworth  
Relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.

(Amended)

**HB 2644** Rose SPONSOR: West, Royce  
Relating to the requirements for a massage therapist license.

(Amended)

**HB 2653** Harless SPONSOR: Whitmire  
Relating to emergency services districts.

(Committee Substitute/Amended)

**HB 2714** Bonnen SPONSOR: Watson  
Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

(Amended)

**HB 2724** Thompson SPONSOR: Gallegos  
Relating to the hours for the wholesale delivery or sale of beer.

**HB 2783** Solomons SPONSOR: Seliger  
Relating to the regulation of certain persons involved in mortgage lending.

(Amended)

**HB 2814** Eissler SPONSOR: Van de Putte

Relating to a pilot project in certain school districts for dual language education in English and another language.  
(Committee Substitute)

**HB 2864** Chisum SPONSOR: Shapiro  
Relating to a pilot program to provide supplemental technology-based instruction to students in rural school districts.  
(Amended)

**HB 2909** Gattis SPONSOR: Ogden  
Relating to the authority of the governing body of a taxing unit in connection with taxes on real property erroneously omitted from the appraisal roll or tax roll in a previous year.  
(Committee Substitute)

**HB 2935** King, Phil SPONSOR: West, Royce  
Relating to the regulation of cigarettes; providing a penalty.  
(Committee Substitute/Amended)

**HB 3220** Elkins SPONSOR: Jackson, Mike  
Relating to the environmental regulation and remediation of dry cleaning facilities.

**HB 3358** Smithee SPONSOR: Ellis  
Relating to prior approval of property and casualty insurance rates under certain circumstances.  
(Committee Substitute)

**HB 3417** Garcia SPONSOR: Hinojosa  
Relating to the counties authorized to create a crime control and prevention district and to the sales and use tax imposed by municipal crime control and prevention districts.  
(Committee Substitute)

**HB 3438** Flores SPONSOR: Lucio  
Relating to the powers and duties of the Rio Grande Regional Water Authority and the establishment of a member conference.  
(Amended)

**HB 3518** Creighton SPONSOR: Nichols  
Relating to the extension of, addition to, or modification of existing restrictive covenants in certain residential subdivisions.  
(Amended)

**HB 3559** Swinford SPONSOR: Duncan  
Relating to the administration and powers of the Canadian River Municipal Water Authority.  
(Committee Substitute)

**HB 3575** Rose SPONSOR: Nelson  
Relating to the monitoring and enhancement of health and human services information technology systems.  
(Amended)

**HB 3581** Howard, Charlie SPONSOR: Wentworth  
Relating to county authority to abate nuisances.  
(Committee Substitute)

**HB 3594** Raymond SPONSOR: Zaffirini

Relating to motor vehicle inspection facilities near the border of this state and Mexico.

(Amended)

**HB 3613**

Latham

SPONSOR: Deuell

Relating to identification cards issued to peace officers, reserve law enforcement officers, honorably retired peace officers, and port pilots by certain governmental entities.

(Committee Substitute)

**HB 3837**

Gonzalez Toureilles

SPONSOR: Hegar

Relating to regulation by the Railroad Commission of Texas of uranium exploration.

(Committee Substitute)

**HB 4096**

Phillips

SPONSOR: Estes

Relating to the creation of the King's Crossing Municipal Utility District of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4134**

Miles

SPONSOR: Ellis

Relating to the creation of the Harris County Improvement District No. 10; providing authority to impose a tax and issue bonds.

(Amended)

**HCR 35**

Rodriguez

SPONSOR: Ellis

Urging the United States Congress to enact legislation to eliminate the 24-month Medicare waiting period for participants in Social Security Disability Insurance.

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 23, 2007 - 2

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:

**HB 438**

Hochberg

SPONSOR: Hegar

Relating to the limitation on the maximum percentage increase in the appraised value of a residence homestead for ad valorem taxation.

**HB 1386**

King, Phil

SPONSOR: Fraser

Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.

(Committee Substitute/Amended)

**HB 1481**

Castro

SPONSOR: Uresti

Relating to standing for certain individuals to file a suit affecting the parent-child relationship.  
(Amended)

**HB 1864** Gonzales SPONSOR: Hinojosa  
Relating to periods of possession of a child under a standard possession order.  
(Committee Substitute/Amended)

**HB 2006** Woolley SPONSOR: Janek  
Relating to the use of eminent domain authority.  
(Amended)

**HB 2237** Eissler SPONSOR: Shapiro  
Relating to grants and programs for dropout prevention, high school success, and college and workforce readiness in public schools.  
(Committee Substitute/Amended)

**HB 2238** Eissler SPONSOR: Shapiro  
Relating to the establishment of the Texas Education Data System (TEDS).  
(Committee Substitute/Amended)

**HB 2823** Bohac SPONSOR: Patrick, Dan  
Relating to provisional voting by a person who applied for an early voting ballot by mail.  
(Amended)

**HB 3232** Olivo SPONSOR: Janek  
Relating to certain subdivision golf courses.  
(Committee Substitute)

**HB 3496** Otto SPONSOR: Williams  
Relating to the deadlines for the delivery or filing of certain ad valorem tax notices.  
(Amended)

**HB 3731** Guillen SPONSOR: Gallegos  
Relating to the administration of retirement systems for paid, partly paid, or volunteer firefighters.  
(Amended)

**HB 3769** Puente SPONSOR: Averitt  
Relating to the eligibility of an employee of a political subdivision of this state to be a member of the governing body of certain state agencies.  
(Amended)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Wednesday, May 23, 2007 - 3

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:

### LOCAL AND UNCONTESTED CALENDAR

- HB 47** Hodge SPONSOR: Hinojosa  
Relating to the provision of educational services to certain inmates imprisoned in the institutional division of the Texas Department of Criminal Justice.
- HB 89** Branch SPONSOR: Harris  
Relating to an exemption for certain political committees from the imposition of civil penalties for violating requirements for reporting political contributions and expenditures.
- HB 147** Phillips SPONSOR: Seliger  
Relating to the deferral of an administrative penalty imposed by the Texas Commission on Environmental Quality against certain utilities and districts.  
(Committee Substitute)
- HB 177** Bailey SPONSOR: Gallegos  
Relating to provision of hot water service to residential rental units.
- HB 191** Miller SPONSOR: Carona  
Relating to fees for issuance of specialty license plates to members and former members of the United States armed forces and their surviving spouses.  
(Committee Substitute)
- HB 261** Pickett SPONSOR: Janek  
Relating to the computation of the motor vehicle sales and use tax on the sale of certain motor vehicles.
- HB 278** Madden SPONSOR: Hinojosa  
Relating to the authority of a school district board of trustees to create a criminal offense for violation of a district policy.
- HB 309** Truitt SPONSOR: Brimer  
Relating to certain notifications made by the Texas Department of Criminal Justice to close relatives of deceased victims.
- HB 335** Hartnett SPONSOR: Hinojosa  
Relating to the time for a court reporter to provide a transcript of the evidence in a case.
- HB 343** Naishtat SPONSOR: Carona  
Relating to notification of voter registrar by probate court clerk of recent deaths.
- HB 373** Hochberg SPONSOR: Averitt  
Relating to the imposition of the sales and use tax on certain sales made by individuals.
- HB 431** Madden SPONSOR: Whitmire  
Relating to the release of a defendant convicted of a state jail felony on medically recommended intensive supervision.
- HB 432** Madden SPONSOR: Seliger  
Relating to the prosecution of the offense of the sale of prison-produced articles or products.
- HB 433** Madden SPONSOR: Seliger  
Relating to disclosure by the inspector general of the Texas Department of Criminal Justice of the identifying information of victims of sex offenses who are confined in a facility operated by or under contract with the department.

**HB 455** Rodriguez SPONSOR: Whitmire  
Relating to the confidentiality of certain personal information that pertains to certain officers and employees of a community supervision and corrections department.

**HB 460** Miller SPONSOR: Hegar  
Relating to the offense of fraudulent use or possession of a person's identifying information.  
(Committee Substitute)

**HB 485** Van Arsdale SPONSOR: Hegar  
Relating to the collection and amount of restitution authorized to be collected from persons charged with or convicted of certain misdemeanor offenses.

**HB 487** Driver SPONSOR: Hegar  
Relating to the continuing education requirements for constables.

**HB 541** Martinez Fischer SPONSOR: Hinojosa  
Relating to procedures for certain persons charged with certain new offenses or an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or mandatory supervision.

**HB 586** Gonzalez Toureilles SPONSOR: Uresti  
Relating to eligibility for dismissal of certain speeding charges on completion of a driving safety course.  
(Amended)

**HB 624** King, Phil SPONSOR: Fraser  
Relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.  
(Committee Substitute)

**HB 730** Kolkhorst SPONSOR: West, Royce  
Relating to the notice of a municipality's or county's intention to issue certificates of obligation.  
(Committee Substitute)

**HB 772** Dutton SPONSOR: Harris  
Relating to suits affecting the parent-child relationship, including the powers and duties of domestic relations offices and the conducting of social studies.  
(Committee Substitute)

**HB 831** Raymond SPONSOR: Zaffirini  
Relating to the eligibility of certain counties to adopt a civil service system.

**HB 916** Menendez SPONSOR: Van de Putte  
Relating to the prosecution and punishment of dog fighting.

**HB 959** Bonnen SPONSOR: Seliger  
Relating to the statute of limitations for the offense of injury to a child.

**HB 964** Guillen SPONSOR: Hinojosa  
Relating to allowing certain students to carry a weapon while en route to and from a law enforcement class.

**HB 1066** Delisi SPONSOR: Nelson  
Relating to health information technology and the creation of the Texas Health Services Authority.  
(Committee Substitute)

**HB 1093** Geren SPONSOR: Harris  
Relating to the offense of funeral service disruption.

(Amended)

**HB 1121** Anchia SPONSOR: Van de Putte  
Relating to judicial findings, a criminal offense, and preventative actions regarding human trafficking or other similar abuse.

**HB 1141** Howard, Donna SPONSOR: Wentworth  
Relating to the confidentiality of certain home address information in local tax appraisal records regarding current or former peace officers and regarding a current or former employee of a prosecutor's office or of certain offices with jurisdiction over child protective services matters.  
(Committee Substitute)

**HB 1146** Bonnen SPONSOR: Janek  
Relating to the authority of small cities to conduct elections only by mail.  
(Amended)

**HB 1158** Goolsby SPONSOR: Carona  
Relating to the address to which notice of the forfeiture of a bail bond is delivered.

**HB 1166** Gallego SPONSOR: Uresti  
Relating to the authority of certain counties to develop a parks and recreation system under the law governing sports and community venue projects.

**HB 1183** Otto SPONSOR: Nichols  
Relating to liability of landowners who allow their land to be used for radio control flying and related activities.

**HB 1196** Kolkhorst SPONSOR: Janek  
Relating to restrictions on the use of certain public subsidies.  
(Amended)

**HB 1205** Keffer, Jim SPONSOR: Eltife  
Relating to the prohibition of certain employment discrimination regarding an employee who is a volunteer emergency responder.  
(Amended)

**HB 1212** Pierson SPONSOR: Harris  
Relating to the penalties for intoxication assault and intoxication manslaughter and to the sentencing of defendants convicted of those offenses.

**HB 1241** Haggerty SPONSOR: Jackson,  
Mike  
Relating to the duty of the security department of a private business to maintain criminal history record information for security department employees.

**HB 1254** Bonnen SPONSOR: Averitt  
Relating to environmental permitting fees and electronic reporting.

**HB 1275** McClendon SPONSOR: Uresti  
Relating to the appeal by an individual entitled to a veteran's preference of certain adverse employment decisions.

**HB 1352** Paxton SPONSOR: Harris  
Relating to the operation of a farm, ranch, factory, or other business by the personal representative of a decedent's estate.

**HB 1370** Coleman SPONSOR: Zaffirini  
Relating to the Interagency Coordinating Council for HIV and Hepatitis.

**HB 1381** McCall SPONSOR: Shapiro

Relating to the date on which certain reports of political contributions and expenditures must be received by the appropriate authority.

**HB 1385** Villarreal SPONSOR: Uresti  
Relating to the regulation of and licensing exemptions for certain child-care facilities.

**HB 1411** West, George "Buddy" SPONSOR: Seliger  
Relating to the unlawful restraint of dogs; providing penalties.

**HB 1427** Alonzo SPONSOR: Zaffirini  
Relating to an optometry career program at the University of Houston.

**HB 1456** Coleman SPONSOR: Hinojosa  
Relating to the requirements for filing an annual financial statement by a municipality.

**HB 1493** Bonnen SPONSOR: Janek  
Relating to the establishment and operation of a severe storm research and planning center.

**HB 1500** Frost SPONSOR: Eltife  
Relating to the composition of the Cass County Juvenile Board.

**HB 1541** Isett, Carl SPONSOR: Van de Putte  
Relating to preannouncement of certain promotional events and purchases by certain alcoholic beverage permit holders.  
(Committee Substitute)

**HB 1545** Pena SPONSOR: Duncan  
Relating to competency to be executed in a capital case.

**HB 1551** Hochberg SPONSOR: West, Royce  
Relating to remedies for common nuisances.  
(Committee Substitute)

**HB 1563** Bolton SPONSOR: Shapleigh  
Relating to the issuance of posthumous high school diplomas to certain students.  
(Committee Substitute)

**HB 1573** Keffer, Jim SPONSOR: Estes  
Relating to the creation, administration, powers, duties, functions, operations, and financing of the Fort Griffin Special Utility District.

**HB 1587** Kuempel SPONSOR: Brimer  
Relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

**HB 1614** Gattis SPONSOR: Ogden  
Relating to the establishment and use of a columbarium on the campuses of certain institutions of higher education.

**HB 1633** Geren SPONSOR: Deuell  
Relating to the determination of eligibility for Medicaid for certain persons in the armed forces and their family members.  
(Committee Substitute)

**HB 1687** Farias SPONSOR: Ellis  
Relating to the information that must be included on the face of an appeal bond.

**HB 1728** Harper-Brown SPONSOR: Harris  
Relating to confidentiality of certain information in rabies vaccination certificates and dog and cat registries.

- HB 1737** Giddings SPONSOR: Fraser  
Relating to business entities and associations.
- HB 1747** Morrison SPONSOR: Nelson  
Relating to the termination of parental rights with regard to certain abandoned children.
- HB 1748** Morrison SPONSOR: Shapiro  
Relating to the administration of Texas governor's schools.  
(Amended)
- HB 1759** Deshotel SPONSOR: Williams  
Relating to the transfer of certain state property from the Health and Human Services Commission, the Department of State Health Services, or the Department of Aging and Disability Services to Spindletop MHMR Services.
- HB 1786** Swinford SPONSOR: Seliger  
Relating to an exemption for certain programs from the child-care licensing requirements.  
(Committee Substitute)
- HB 1795** Veasey SPONSOR: Shapleigh  
Relating to certain security technology at unmanned teller machines.
- HB 1815** Isett, Carl SPONSOR: Hinojosa  
Relating to the prosecution of certain offenses that involve carrying weapons on a person's property or in a person's vehicle.
- HB 1841** Bonnen SPONSOR: Janek  
Relating to the presumption of validity of an act or proceeding of a navigation district, its governing body, or certain corporations of the district.
- HB 1847** Hancock SPONSOR: Averitt  
Relating to certain noninsurance benefits and related services for accident, health, life, and long-term care insurance.
- HB 1849** Hancock SPONSOR: Brimer  
Relating to certain fees for valuing life insurance policies.
- HB 1857** Murphy SPONSOR: Carona  
Relating to the identification and regulation of land located in a future transportation corridor of a county.  
(Amended)
- HB 1915** Swinford SPONSOR: Duncan  
Relating to the creation of a fire department listing by the Texas Forest Service.
- HB 1920** Keffer, Jim SPONSOR: Ogden  
Relating to the remedies available in connection with certain disputes between producers of natural gas and persons who gather or transport the gas.
- HB 1995** Gonzalez Toureilles SPONSOR: Watson  
Relating to the time in which to appeal a report by an associate judge in a suit affecting the parent-child relationship.
- HB 2002** Giddings SPONSOR: Fraser  
Relating to notification to check verification entities that a customer is a victim of identity theft and the consequences of the notice.
- HB 2060** Geren SPONSOR: Estes  
Relating to the Texas Board of Architectural Examiners; providing penalties.  
(Committee Substitute)
- HB 2070** Guillen SPONSOR: Zaffirini

Relating to the confirmation election of the Duval County Groundwater Conservation District.

**HB 2077** Krusee SPONSOR: Ogden  
Relating to police officers eligible to be certified to enforce commercial motor vehicle safety standards.

**HB 2087** Hill SPONSOR: Wentworth  
Relating to the holding by a county, municipality, or junior college district of a petition-initiated election on whether to establish a limitation on increases in the amount of ad valorem taxes imposed by the county, municipality, or junior college district on residence homesteads of the elderly or disabled.

**HB 2091** Hill SPONSOR: Wentworth  
Relating to municipal consent to the addition to a political subdivision of land located in the extraterritorial jurisdiction of the municipality.

**HB 2092** Hill SPONSOR: Shapiro  
Relating to the designation of an area in a municipality as a reinvestment zone under the Tax Increment Financing Act.

**HB 2101** Haggerty SPONSOR: Jackson,  
Mike  
Relating to the authority of a commissioned security officer to carry certain weapons.

**HB 2103** Kolkhorst SPONSOR: Ogden  
Relating to a pilot program to provide student loan repayment assistance to certain correctional officers who graduate from Sam Houston State University.

**HB 2106** Chisum SPONSOR: Whitmire  
Relating to the regulation of barbering and cosmetology.  
(Committee Substitute)

**HB 2112** Patrick SPONSOR: Hegar  
Relating to the prosecution of an offense prohibiting the exhibition, use, or threatened exhibition or use of a firearm in or on school property or a school bus.

**HB 2115** Frost SPONSOR: Zaffirini  
Relating to a defendant's eligibility for deferred adjudication of certain intoxication offenses.

**HB 2117** Parker SPONSOR: Harris  
Relating to the liability of certain persons who administer emergency care.

**HB 2120** Deshotel SPONSOR: Williams  
Relating to the operation of the unemployment compensation system and computation of an individual's unemployment compensation benefits; providing a criminal penalty.  
(Committee Substitute)

**HB 2151** Bohac SPONSOR: Ellis  
Relating to the prosecution and adjudication of the offense of graffiti and to the payment and use of a juvenile delinquency prevention and graffiti eradication fee.

**HB 2174** Bonnen SPONSOR: Janek  
Relating to excluding the transportation of gas to and from a liquefied natural gas marine terminal from being considered a gas utility.

**HB 2218** Hochberg SPONSOR: Janek  
Relating to the vesting of architectural control committee authority in certain subdivisions.

- HB 2256** McReynolds SPONSOR: Deuell  
Relating to the requirements for uniform fair hearing rules for Medicaid services, including services that require prior authorization.
- HB 2267** Solomons SPONSOR: Harris  
Relating to the suspension of sentence and deferral of final disposition in certain misdemeanor cases.
- HB 2283** Chavez SPONSOR: Watson  
Relating to the suspension or removal of a deputy sheriff.
- HB 2353** Thompson SPONSOR: West, Royce  
Relating to the applicability of the Texas Fair Housing Act to public housing authorities.
- HB 2358** Otto SPONSOR: Duncan  
Relating to the deposit of certain employer contributions to the Teacher Retirement System of Texas.
- HB 2368** Morrison SPONSOR: Hegar  
Relating to the composition of the board of navigation and canal commissioners of the Victoria County Navigation District.
- HB 2385** Lucio III SPONSOR: Hinojosa  
Relating to the collection of fees by a district attorney, criminal district attorney, or county attorney for certain expenses related to pretrial intervention programs.
- HB 2389** Madden SPONSOR: Deuell  
Relating to the right of a minor in the custody of the Texas Department of Criminal Justice to consent to medical, dental, psychological, and surgical treatment.
- HB 2392** Madden SPONSOR: Deuell  
Relating to escrow fees required for the construction and leasing of certain health facilities.  
(Committee Substitute)
- HB 2417** Swinford SPONSOR: Averitt  
Relating to the responsibility for and management of the fuel ethanol and biodiesel production incentive program.
- HB 2426** Truitt SPONSOR: Deuell  
Relating to the regulation of the practice of nursing and the renaming of the Board of Nurse Examiners as the Texas Board of Nursing.  
(Committee Substitute)
- HB 2442** Laubenberg SPONSOR: Estes  
Relating to the powers, duties, operation, and financing of the Collin County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.
- HB 2467** Solomons SPONSOR: Van de Putte  
Relating to modification of certain small and large employer health benefit plans.
- HB 2484** Menendez SPONSOR: Deuell  
Relating to the funds allocation advisory committee of the Texas Commission on Fire Protection.
- HB 2540** Isett, Carl SPONSOR: Nelson  
Relating to implementing a pilot project to simplify, streamline, and reduce costs associated with the Medicaid cost reporting and auditing process for certain providers.

**HB 2551** Smith, Todd SPONSOR: Harris  
Relating to refund of excessive or unfairly discriminatory premium; providing penalties.

**HB 2569** Thompson SPONSOR: Fraser  
Relating to abolition of certain fraud reporting requirements regarding motor vehicle insurance.

**HB 2608** Hughes SPONSOR: Eltife  
Relating to funding for applied research for a clean coal project or certain other projects for the generation of electricity from coal.

**HB 2617** Guillen SPONSOR: Zaffirini  
Relating to the creation of municipal courts of record in the city of Laredo.

**HB 2621** Isett, Carl SPONSOR: Eltife  
Relating to the preservation, maintenance, and restoration of certain state buildings by the Texas Historical Commission and to the transfer of the Texas Building and Procurement Commission's Governor's Mansion duties to the State Preservation Board.  
(Committee Substitute)

**HB 2627** Murphy SPONSOR: Deuell  
Relating to the requirements for the issuance of certain specialty license plates.

**HB 2641** Solomons SPONSOR: Zaffirini  
Relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.  
(Committee Substitute)

**HB 2646** Rose SPONSOR: Watson  
Relating to the award of stipends to nationally certified classroom teachers under the educator excellence awards program.

**HB 2651** Harless SPONSOR: Ellis  
Relating to the issuance and renewal of certain motor vehicle dealer licenses, motor vehicle license plates, and general distinguishing numbers.

**HB 2654** Puente SPONSOR: Duncan  
Relating to the regulation of the use of an injection well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals.

**HB 2660** King, Tracy SPONSOR: Eltife  
Relating to the use of money from the Texas economic development bank fund for rural rail development.

**HB 2703** Woolley SPONSOR: Gallegos  
Relating to interference with the duties of a public health professional; providing a criminal penalty.

**HB 2713** Bonnen SPONSOR: Averitt  
Relating to studies, plans, and projects concerning electric generation capacity or electric energy storage, transmission, or distribution.

**HB 2715** Castro SPONSOR: Van de Putte  
Relating to the enforcement of the fares and other charges imposed by certain metropolitan rapid transit authorities.

**HB 2723** Thompson SPONSOR: Gallegos  
Relating to the sampling of malt beverages on the premises of certain manufacturers and retailers.

- HB 2734** Gattis SPONSOR: Ogden  
Relating to the creation of the Williamson-Liberty Hill Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.  
(Committee Substitute)
- HB 2738** Solomons SPONSOR: Harris  
Relating to liens on real property.  
(Amended)
- HB 2751** McClendon SPONSOR: Wentworth  
Relating to the administration of a retirement health care plan for firefighters and police officers in certain municipalities.
- HB 2752** McClendon SPONSOR: Wentworth  
Relating to the pension retirement system in certain municipalities for firefighters and police.
- HB 2762** Eiland SPONSOR: Averitt  
Relating to adoption of requirements regarding the replacement of existing life insurance policies and certain annuities; imposing penalties.  
(Committee Substitute)
- HB 2782** Otto SPONSOR: Williams  
Relating to the creation of the Liberty County Municipal Utility District No. 5.
- HB 2820** Jones, Delwin SPONSOR: Watson  
Relating to the practice of professional land surveying by a business entity.
- HB 2827** Taylor SPONSOR: Jackson, Mike  
Relating to rules regarding anaphylaxis treatment provided by emergency medical services personnel.
- HB 2859** Brown, Betty SPONSOR: Deuell  
Relating to a memorial sign program for victims of certain vehicle accidents.  
(Committee Substitute)
- HB 2895** Flynn SPONSOR: Hinojosa  
Relating to the criteria for awarding the Texas Humanitarian Service Medal to certain members of the state military forces.
- HB 2896** Flynn SPONSOR: Hinojosa  
Relating to an award for certain members of the state military forces and civilians for superior service.
- HB 2897** Flynn SPONSOR: Hinojosa  
Relating to an award for certain members of the state military forces who served in defense support to a civilian authority mission.
- HB 2917** Macias SPONSOR: Wentworth  
Relating to limitations on the compensation of county auditors for certain counties.
- HB 2926** Van Arsdale SPONSOR: Ellis  
Relating to using county election precincts in every county for any election held on the November uniform election date.
- HB 2944** Murphy SPONSOR: Whitmire  
Relating to permits for erecting certain outdoor signs or advertising.  
(Committee Substitute)
- HB 2990** Madden SPONSOR: Seliger

Relating to use of certain electronic monitoring technology in certain correctional facilities by the Texas Department of Criminal Justice.

**HB 2991** Murphy SPONSOR: Williams  
Relating to the control of access to highways within certain counties.

**HB 3008** Pierson SPONSOR: Nelson  
Relating to the establishment of a pilot program to match certain teens in foster care with adult mentors.

**HB 3017** Puente SPONSOR: Averitt  
Relating to the certification of water treatment specialists.

**HB 3024** Frost SPONSOR: Eltife  
Relating to the weight accorded in a taxpayer protest hearing to the determination by a certified appraiser of appraised value of real property.

**HB 3038** Rose SPONSOR: Watson  
Relating to the appointment of a taxpayer liaison officer for certain appraisal districts.

**HB 3064** Delisi SPONSOR: Nelson  
Relating to registration and regulation of certain discount health plans; providing penalties.  
(Committee Substitute)

**HB 3093** Howard, Charlie SPONSOR: Janek  
Relating to verification of a customer's zip code in a credit card transaction.

**HB 3098** Puente SPONSOR: Averitt  
Relating to the fees imposed by the Texas Commission on Environmental Quality in connection with plans that are subject to review and approval under the commission's rules for the protection of the Edwards Aquifer.

**HB 3101** Anchia SPONSOR: Carona  
Relating to a residential tenant's rights and remedies.  
(Committee Substitute)

**HB 3114** Swinford SPONSOR: Zaffirini  
Relating to student fees at component institutions of The Texas A&M University System.

**HB 3131** Cook, Robby SPONSOR: Hegar  
Relating to the issuance of certain search warrants.

**HB 3147** Solomons SPONSOR: Carona  
Relating to claims against a contractor for construction of common elements under a condominium or cooperative system.

**HB 3171** Swinford SPONSOR: Wentworth  
Relating to the development by the Texas Education Agency of a list of resources concerning Internet safety for use by school districts.

**HB 3182** Parker SPONSOR: Nelson  
Relating to the creation of the Tradition Municipal Utility District No. 2 of Denton County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**HB 3184** Coleman SPONSOR: Deuell  
Relating to educating parents about the benefits of immunizing certain children against influenza.  
(Committee Substitute)

**HB 3190** Giddings SPONSOR: Carona

Relating to school bus safety; creating an offense.  
(Committee Substitute)

**HB 3195** Hill SPONSOR: Williams  
Relating to the requirements of a municipal or county budget that raises more property taxes than in the previous year's budget.

**HB 3199** Hartnett SPONSOR: Wentworth  
Relating to the creation of the Judicial Compensation Commission.  
(Committee Substitute)

**HB 3210** Harless SPONSOR: Whitmire  
Relating to the authority of an investigator employed by a prosecuting attorney.

**HB 3211** Harless SPONSOR: Whitmire  
Relating to access to criminal history record information by certain county attorneys.

**HB 3225** Murphy SPONSOR: Carona  
Relating to the scope of authority of the Automobile Theft Prevention Authority.

**HB 3236** Cook, Robby SPONSOR: Hegar  
Relating to the service areas of the Austin Community College District and the Blinn Junior College District.

**HB 3261** Chavez SPONSOR: Nelson  
Relating to the use of electronic signatures in the administration of health and human services programs.

**HB 3266** Eiland SPONSOR: Jackson,  
Mike  
Relating to fees for certain commercial licenses issued by the Parks and Wildlife Department.

**HB 3270** Eiland SPONSOR: Williams  
Relating to authorizing the issuance of anticipation notes or other obligations by issuers located along the Gulf Coast in the event of an emergency.

**HB 3273** Crownover SPONSOR: Averitt  
Relating to the powers and duties of the Railroad Commission of Texas; providing an administrative penalty.

**HB 3290** Otto SPONSOR: Nichols  
Relating to expanding the scope of an audit by the state auditor when the state auditor finds evidence of gross mismanagement.

**HB 3291** Otto SPONSOR: Averitt  
Relating to a prohibition against the governing board of a public institution of higher education entering into certain contracts relating to permanent improvements at the institution.

**HB 3295** Driver SPONSOR: Williams  
Relating to the DNA samples taken from certain offenders.

**HB 3300** Phillips SPONSOR: Estes  
Relating to classifying llamas, alpacas, and exotic livestock as livestock under the Agriculture Code.

**HB 3353** Haggerty SPONSOR: Shapleigh  
Relating to the repeal of the authority of certain water supply or sewer service corporations to dissolve and transfer assets and liabilities to a municipality.

**HB 3355** Haggerty SPONSOR: Brimer

Relating to the board of trustees, benefits, and contributions of certain fire and police pension funds.

**HB 3385** Chisum SPONSOR: Janek  
 Relating to the use of certain state money for costs related to the relocation to this state of the Interstate Oil and Gas Compact Commission, for the support of that commission, and for related economic development.  
 (Committee Substitute)

**HB 3407** Hamilton SPONSOR: Nichols  
 Relating to the appointment of emergency services boards in districts located in more than one county.

**HB 3426** Flynn SPONSOR: Shapleigh  
 Relating to the continuation and functions of the Texas Veterans Commission.  
 (Committee Substitute)

**HB 3435** Herrero SPONSOR: Hinojosa  
 Relating to peace officers of navigation districts.

**HB 3439** Parker SPONSOR: Jackson, Mike  
 Relating to county fiscal matters.

**HB 3440** Parker SPONSOR: Harris  
 Relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.  
 (Committee Substitute)

**HB 3441** Phillips SPONSOR: Estes  
 Relating to the eligibility of an establishment to be included on a specific information logo sign along a highway.  
 (Committee Substitute)

**HB 3470** Delisi SPONSOR: Williams  
 Relating to the program of supplemental health coverage for individuals eligible under the TRICARE military health system offered through the Employees Retirement System of Texas.

**HB 3475** Gallego SPONSOR: Uresti  
 Relating to the authority of certain counties to acquire, construct, or operate a water supply system or sewage system and own or operate a utility.  
 (Amended)

**HB 3502** Hilderbran SPONSOR: Wentworth  
 Relating to the protection and preservation of caves; providing penalties.

**HB 3517** Creighton SPONSOR: Watson  
 Relating to competitive purchasing requirements for local governments.  
 (Committee Substitute)

**HB 3558** Zedler SPONSOR: Brimer  
 Relating to the issuance of warrants to certain persons for fire, health, and code inspections.

**HB 3571** Rose SPONSOR: Uresti  
 Relating to a pilot program to facilitate food stamp program outreach efforts and eligibility determination processes.  
 (Committee Substitute)

**HB 3593** Raymond SPONSOR: Zaffirini

Relating to the time by which certain persons found to have engaged in family violence must complete court-ordered counseling.

**HB 3609** Talton SPONSOR: Ellis  
Relating to membership and service credit in the Employees Retirement System of Texas for certain employees.  
(Committee Substitute)

**HB 3619** Raymond SPONSOR: Zaffirini  
Relating to the authority of a political subdivision other than a county to change the date of its general election.

**HB 3647** Kolkhorst SPONSOR: Lucio  
Relating to a study by the attorney general of the effects on state law and authority of certain international and other agreements and bodies.

**HB 3659** Dunnam SPONSOR: Ellis  
Relating to the disclosure of the name of a student or minor who is involved in an improper relationship with an educator.

**HB 3688** Hughes SPONSOR: Eltife  
Relating to the transfer of certain state property from the Texas Department of Criminal Justice to the City of Winnsboro.

**HB 3711** Krusee SPONSOR: Shapleigh  
Relating to the repeal of obsolete statutes regulating railroads.  
(Committee Substitute)

**HB 3723** Elkins SPONSOR: Janek  
Relating to the voting rights of residents in an area annexed for limited purposes under a strategic partnership agreement.

**HB 3735** McReynolds SPONSOR: Nichols  
Relating to a diabetes demonstration pilot program.

**HB 3736** McReynolds SPONSOR: Hinojosa  
Relating to establishing parole officer maximum caseloads.

**HB 3764** O'Day SPONSOR: Estes  
Relating to use of marine dealer, distributor, and manufacturer numbers and issuance of validation cards.

**HB 3770** Puente SPONSOR: Hegar  
Relating to the acquisition of road powers by a municipal utility district.

**HB 3787** Isett, Carl SPONSOR: Shapleigh  
Relating to a probate fee exemption for estates of members of the armed forces of the United States who died while serving in a combat zone.

**HB 3832** Farias SPONSOR: Uresti  
Relating to video equipment on a motor vehicle.

**HB 3834** Gonzales SPONSOR: Hinojosa  
Relating to authorizing the amount of a fee charged by certain counties for issuing certain utility certificates.

**HB 3879** Menendez SPONSOR: Uresti  
Relating to the powers and duties of defense base development authorities; modifying the power of eminent domain.

**HB 3934** McClendon SPONSOR: Van de Putte  
Relating to the establishment of a student outcomes pilot program by Alamo Community College District.

- HB 3954** Macias SPONSOR: Wentworth  
Relating to improvement projects in certain counties.
- HB 3979** Laubenberg SPONSOR: Estes  
Relating to the creation of the McKinney Municipal Utility Districts Nos. 1 and 2 of Collin County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3980** Eiland SPONSOR: Jackson, Mike  
Relating to the navigation district powers and the confirmation of the Galveston County Municipal Utility District No. 67; providing authority to issue bonds.
- HB 3982** Dutton SPONSOR: Whitmire  
Relating to the creation of the Harris County Municipal Utility District No. 494; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3988** Murphy SPONSOR: Patrick, Dan  
Relating to the creation of the Harris County Municipal Utility District No. 438; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3989** Murphy SPONSOR: Patrick, Dan  
Relating to the creation of the Harris County Municipal Utility District No. 437; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3991** King, Phil SPONSOR: Estes  
Relating to the creation of the Rolling V Ranch Water Control and Improvement District No. 1 of Wise County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3992** King, Phil SPONSOR: Estes  
Relating to the county courts at law in Parker County.
- HB 3993** King, Phil SPONSOR: Estes  
Relating to the compensation of the members of the juvenile board of Parker County.
- HB 3997** Puente SPONSOR: Harris  
Relating to the Uniform Parentage Act, termination of parental rights, and matters relating to determination of paternity.
- HB 3998** Creighton SPONSOR: Williams  
Relating to the creation of the Southeast Montgomery County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 4004** Vo SPONSOR: Ellis  
Relating to the creation of the International Management District; providing authority to impose assessments and taxes and to issue bonds.
- HB 4006** Olivo SPONSOR: Janek  
Relating to the creation of Booth Ranch Municipal Utility District of Fort Bend County, Texas; providing authority to impose taxes and issue bonds; granting the power of eminent domain.
- HB 4007** Ortiz, Jr. SPONSOR: Hinojosa  
Relating to the county courts at law in Nueces County.  
(Amended)

**HB 4008** Chavez SPONSOR: Shapleigh  
Relating to the creation of additional county criminal courts at law in El Paso County.

**HB 4009** Hilderbran SPONSOR: Uresti  
Relating to the name, directors, and elections of the Emerald Underground Water Conservation District.

**HB 4010** Eiland SPONSOR: Janek  
Relating to the creation of the Cade Ranch Water Control and Improvement District No. 1 of Galveston County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4017** Smith, Wayne SPONSOR: Whitmire  
Relating to the creation of the Harris County Municipal Utility District No. 510; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4018** Van Arsdale SPONSOR: Patrick, Dan  
Relating to the powers and duties of the Harris County Municipal Utility District No. 416; providing authority to impose a tax and issue bonds.

**HB 4019** Zerwas SPONSOR: Hegar  
Relating to the powers and duties of the Cinco Southwest Municipal Utility District No. 4; providing authority to impose a tax and issue bonds.

**HB 4022** Zerwas SPONSOR: Hegar  
Relating to the powers and duties of the Fort Bend County Municipal Utility District No. 58; providing authority to impose a tax and issue bonds.

**HB 4024** Zerwas SPONSOR: Hegar  
Relating to the creation of the Fort Bend County Municipal Utility District No. 190; providing authority to impose a tax and issue bonds.

**HB 4028** Geren SPONSOR: Brimer  
Relating to the creation of the Northern Trinity Groundwater Conservation District.  
(Committee Substitute)

**HB 4031** Bonnen SPONSOR: Jackson, Mike  
Relating to the creation of the Brazoria County Municipal Utility District No. 62; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4037** Raymond SPONSOR: Zaffirini  
Relating to the terms of court for the 49th and 341st District Courts.

**HB 4038** Howard, Charlie SPONSOR: Whitmire  
Relating to the powers and duties of the Harris County Municipal Utility District No. 473; providing authority to impose a tax and issue bonds.

**HB 4039** Anderson SPONSOR: Averitt  
Relating to the appointment of magistrates in McLennan County.

**HB 4040** Anderson SPONSOR: Averitt  
Relating to the composition of the McLennan County Juvenile Board.

**HB 4041** Rose SPONSOR: Wentworth  
Relating to the powers and duties of the Sunfield Municipal Utility District No. 3 regarding elections and road projects; providing authority to impose a tax and issue bonds.

**HB 4042** Rose SPONSOR: Wentworth  
Relating to the powers and duties of the Sunfield Municipal Utility District No. 4 regarding elections and road projects; providing authority to impose a tax and issue bonds.

**HB 4043** Rose SPONSOR: Wentworth  
Relating to the powers and duties of the Sunfield Municipal Utility District No. 1 regarding elections and road projects; providing authority to impose a tax and issue bonds.

**HB 4045** Callegari SPONSOR: Patrick, Dan  
Relating to the creation of the Towne Lake Management District; providing authority to levy an assessment, impose a tax, and issue bonds.  
(Committee Substitute)

**HB 4046** Eissler SPONSOR: Williams  
Relating to the creation of the Montgomery County Municipal Utility District No. 104; providing authority to impose taxes and issue bonds.

**HB 4047** Farabee SPONSOR: Estes  
Relating to the powers and duties of the Electra Hospital District.

**HB 4056** Rose SPONSOR: Wentworth  
Relating to the creation of the Hays County Municipal Utility District No. 6; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4057** Solomons SPONSOR: Harris  
Relating to the powers and duties of the Denton County Levee Improvement District No. 1 of Denton and Dallas Counties, Texas; providing authority to issue bonds.

**HB 4061** Parker SPONSOR: Estes  
Relating to the creation of the Denton County Municipal Utility District No. 7; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4067** King, Tracy SPONSOR: Zaffirini  
Relating to the boundaries of the Zavala-Dimmit Counties Water Improvement District No. 1.

**HB 4070** Eiland SPONSOR: Jackson,  
Mike  
Relating to the creation of the Galveston County Municipal Utility District No. 65; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4072** Gattis SPONSOR: Ogden  
Relating to the creation of the 3 B&J Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4074** Eissler SPONSOR: Williams  
Relating to the creation of the Montgomery County Municipal Utility District No. 102; providing authority to impose taxes and issue bonds.

**HB 4079** Eissler SPONSOR: Williams  
Relating to the creation of the Montgomery County Municipal Utility District No. 119; providing authority to impose taxes and issue bonds.

**HB 4080** Talton SPONSOR: Mike

Relating to the creation of the Harris County Municipal Utility District No. 509; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4083** Eissler SPONSOR: Williams  
Relating to the creation of the Montgomery County Municipal Utility District No. 117; providing authority to impose taxes and issue bonds.

**HB 4084** Eissler SPONSOR: Williams  
Relating to the creation of the Montgomery County Municipal Utility District No. 120; providing authority to impose taxes and issue bonds.

**HB 4093** Otto SPONSOR: Williams  
Relating to the creation of the Chambers-Liberty Counties Improvement District; providing authority to impose a tax and issue bonds.

**HB 4097** Phillips SPONSOR: Estes  
Relating to the creation of the Gunter Municipal Utility District No. 2; providing authority to impose taxes and issue bonds.

**HB 4098** Phillips SPONSOR: Estes  
Relating to the creation of the Gunter Municipal Utility District No. 1; providing authority to impose taxes and issue bonds.

**HB 4099** Phillips SPONSOR: Estes  
Relating to the creation of the Preston Summit Municipal Utility District No. 1 of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4101** Parker SPONSOR: Estes  
Relating to the powers of the Talley Ranch Water Control and Improvement District No. 1 of Denton County; providing authority to impose a tax and issue bonds.

**HB 4104** Eissler SPONSOR: Williams  
Relating to the powers and duties of the Montgomery County Municipal Utility District No. 112; providing authority to impose a tax and issue bonds.

**HB 4107** Herrero SPONSOR: Hinojosa  
Relating to the appointment and duties of criminal magistrates for certain courts in Nueces County.  
(Amended)

**HB 4111** Smithee SPONSOR: Seliger  
Relating to the creation of the Randall County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4112** Eiland SPONSOR: Hegar  
Relating to the creation of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 4114** O'Day SPONSOR: Jackson,  
Mike  
Relating to the powers and financing of the Brazoria County Groundwater Conservation District.

**HB 4123** Miles SPONSOR: Ellis  
Relating to territory included in, and the validation of acts of, the Greater Southeast Management District.

**HCR 12** Martinez, "Mando" SPONSOR: Hinojosa  
Designating the bolo tie as the official State Tie of Texas.

**HCR 16** West, George "Buddy" SPONSOR: Seliger  
Urging the U.S. Congress to honor the sacrifice and service of the U.S. Merchant Marine in World War II by passing the Belated Thank You to the Merchant Mariners of World War II Act of 2005.

**HCR 25** Chisum SPONSOR: Seliger  
Designating Friona as the official Cheeseburger Capital of Texas.

**HCR 102** Gallego SPONSOR: Uresti  
Designating silver as the official precious metal of Texas.

**HCR 111** Strama SPONSOR: Brimer  
Authorizing the placement of a monument commemorating the federal Bill of Rights.

**HCR 164** Gallego SPONSOR: Uresti  
Encouraging the United States and Mexican federal governments to reopen the bridge and border crossing at La Linda, Coahuila, Mexico.

**HCR 187** McClendon SPONSOR: Duncan  
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.

**SCR 76** Van de Putte  
Requesting the United States Air Force to consider the impact of transferring work from the Port of San Antonio to military depots.

**SCR 77** Van de Putte  
Urging the president of the United States to award the American Defense Service Medal to military personnel serving during the Cold War.

**SCR 79** Hinojosa  
Posthumously awarding the Texas Legislative Medal of Honor to Sergeant Alfredo Gonzalez for his heroic actions in Vietnam during the Tet Offensive.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 6**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Wednesday, May 23, 2007 - 6

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:

**LOCAL AND UNCONTESTED CALENDAR**

**HB 1400** Dutton SPONSOR: Shapiro

Relating to the issuance by a corporation established by the Texas Public Finance Authority of revenue bonds for open-enrollment charter school facilities.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### ENROLLED

May 22 - HB 41, HB 44, HB 48, HB 54, HB 56, HB 95, HB 149, HB 188, HB 264, HB 271, HB 273, HB 308, HB 321, HB 323, HB 387, HB 401, HB 429, HB 434, HB 462, HB 530, HB 538, HB 587, HB 590, HB 618, HB 629, HB 662, HB 713, HB 738, HB 764, HB 842, HB 887, HB 891, HB 921, HB 922, HB 948, HB 963, HB 1005, HB 1049, HB 1052, HB 1129, HB 1179, HB 1188, HB 1293, HB 1318, HB 1373, HB 1420, HB 1446, HB 1561, HB 1572, HB 1585, HB 1586, HB 1602, HB 1634, HB 1678, HB 1679, HB 1700, HB 1709, HB 1719, HB 1720, HB 1734, HB 1764, HB 1767, HB 1788, HB 1789, HB 1798, HB 1804, HB 1839, HB 1930, HB 2010, HB 2015, HB 2042, HB 2095, HB 2132, HB 2171, HB 2195, HB 2216, HB 2235, HB 2248, HB 2293, HB 2313, HB 2341, HB 2345, HB 2348, HB 2350, HB 2359, HB 2371, HB 2398, HB 2444, HB 2462, HB 2471, HB 2489, HB 2503, HB 2504, HB 2518, HB 2565, HB 2580, HB 2589, HB 2591, HB 2622, HB 2626, HB 2664, HB 2691, HB 2718, HB 2754, HB 2765, HB 2796, HB 2834, HB 2882, HB 2910, HB 2945, HB 2983, HB 2992, HB 3092, HB 3123, HB 3132, HB 3135, HB 3259, HB 3410, HB 3446, HB 3473, HB 3492, HB 3505, HB 3514, HB 3537, HB 3634, HB 3827, HB 3955, HB 4044, HCR 67, HCR 215, HCR 216, HCR 246, HJR 103

### SENT TO THE GOVERNOR

May 22 - HB 8, HB 73, HB 125, HB 167, HB 195, HB 246, HB 312, HB 342, HB 386, HB 416, HB 417, HB 425, HB 495, HB 496, HB 564, HB 576, HB 585, HB 654, HB 680, HB 693, HB 776, HB 1010, HB 1023, HB 1045, HB 1067, HB 1070, HB 1100, HB 1138, HB 1157, HB 1178, HB 1210, HB 1230, HB 1365, HB 1382, HB 1401, HB 1412, HB 1497, HB 1530, HB 1579, HB 1652, HB 1717, HB 1741, HB 1787, HB 1820, HB 1844, HB 1871, HB 1910, HB 1928, HB 2056, HB 2075, HB 2163, HB 2168, HB 2188, HB 2212, HB 2251, HB 2338, HB 2393, HB 2439, HB 2468, HB 2514, HB 2546, HB 2559, HB 2611, HB 2625, HB 2636, HB 2683, HB 2735, HB 2799, HB 2931, HB 2967, HB 3074, HB 3084, HB 3138, HB 3158, HB 3191, HB 3226, HB 3281, HB 3322, HB 3601, HCR 23, HCR 136, HCR 137, HCR 152, HCR 159, HCR 256, HCR 259

### SENT TO THE SECRETARY OF THE STATE

May 22 - HJR 69