The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 366).

Present — Mr. Speaker; Agnich; Armbister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Ceverha; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gestweitd; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp, Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Absent, Excused — Crockett; Rudd.

Absent — Evans, L.; Gibson, B.

The invocation was offered by Reverend David Blackman, Oak Park United Methodist Church, Paris, Texas, as follows.

Almighty and everlasting God, in whom we live and move and have our being, who has created us for yourself so that we can find rest only in you: grant to us purity of heart and strength of purpose so that no selfish passion may hinder us from knowing your will and no weakness sway us from it and that in your light we may see light clearly and in your service find perfect freedom.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of important business:

Crockett on motion of A. Moreno.
MESSAGE FROM THE SENATE

Austin, Texas, May 12, 1983

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 45 by Farabee and Caperton, relating to giving juvenile probation officers and offices in certain counties or multicounty areas and other county agencies additional duties in regard to court orders for child support.
SB 46 by Henderson, relating to local regulation of a business that sells alcoholic beverages.
SB 488 by Harris, relating to the regulation of banking and to the Banking Department Expense Fund.
SB 538 by Caperton, relating to the increase in minimum automobile liability coverage for motor vehicles.
SB 620 by Parker, relating to the Lamar University System and to certain appropriations by the legislature to Lamar University.
SB 627 by Glasgow and Montford, relating to the manufacture with intent to deliver and the delivery of a simulated controlled substance.
SB 722 by Parker, relating to toilet and drinking water facilities in engines and cabooses.
SB 772 by Parmer, relating to rules governing relationships between a state agency and its employees and a private organization or private donor.
SB 810 by Brooks, relating to treatment programs at certain state chest hospitals.
SB 1000 by Brown, relating to the requirement for a saltwater sportfishing stamp and to fees.
SB 1023 by Lyon and Mauzy, relating to increasing penalties for taking redfish and speckled sea trout and for possessing and using certain nets.

Local and Uncontested Calendar

HCR 8 by Khoury, relating to Falls County.
HB 15 by C. Smith, relating to the temporary employment of persons in certain fire departments and police departments.
HB 102 by A. Hill, relating to inspections of convalescent homes, nursing homes, and other related institutions. (Amended)
HB 103 by A. Hill, relating to a repeal of the requirement that state agencies adopt a code of conduct for agency employees who inspect and survey health care facilities.
CSHB 410 by Denton, relating to the purchase of firearms from the state by retiring state peace officers.
HB 480 by Collazo, relating to research and management of alligators, fur-bearing animals, and other wildlife resources, and to the removal of alligators and fur-bearing animals from wildlife management areas.
HB 532 by Peveto, relating to the time at which the board of directors of an appraisal district receives the proposed budget for the district.
CSHB 618 by Rudd, relating to the duties of the county attorney of Andrews County and the district attorney of the 109th Judicial District.
HB 672 by Hollowell, relating to the establishment and powers of a juvenile board in Upshur County, composition of the board, selection of chairman; meetings; compensation of members; designation of fiscal officer.

HB 680 by Gilley, relating to the board of regents of East Texas State University.

HB 719 by E. F. Lee, relating to the display and sale of unpackaged food.

HB 722 by Blanton, relating to the limitation on the amount of funding for community education services.

HB 853 by Schlueter, relating to the rate of interest or time price differential charged in a manufactured home credit transaction.

HB 962 by Schlueter, relating to taxation of sample packages of cigarettes. (Amended)

HB 972 by Patronella, et al., relating to certain deadlines in the Texas Election Code affecting the status of candidates. (Amended)

HB 1111 by Buchanan, relating to the date a voter registration application by mail is deemed to be received by a voter registrar.

HB 1229 by Cain, et al., relating to the service plan and fare and service changes of a regional transportation authority in a metropolitan area.

HB 1427 by Green, relating to the manner in which a domestic insurance company may evidence its ownership of securities.

HB 1440 by Gilley, relating to jurisdiction and other provisions pertaining to the County Court at Law of Hunt County and to the judge and special judges of that court.

HB 1441 by Gilley, relating to the establishment of powers of a juvenile board in Wood County.

HB 1487 by Simpson, relating to procedures for the consideration and adoption of certain rules and rates specified in Chapter 5, Insurance Code.

HB 1775 by Hanna, relating to payment of certain oil and gas proceeds.

HB 1828 by Hammond, relating to the maximum interest rate on certain school district obligations.

HB 1861 by Clark, relating to the creation, organization, powers, duties and financing of certain municipal power agencies.

HB 1958 by Horn, relating to certain powers and duties of the board of regents of the Texas Woman's University.

HB 2018 by Stiles, relating to the administration and provision of drugs by a licensed veterinarian or by a person designated by a licensed veterinarian.

Respectfully,
Betty King
Secretary of the Senate

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By G. Thompson:

HCR 244, In memory of A. B. Morris.
To Committee on Rules and Resolutions.

By Crockett:

HCR 245, In memory of Teodoro "Ted" Flores, Sr.
To Committee on Rules and Resolutions.
By T. Smith:
HCR 247, Directing the Texas Commission on Jail Standards to furnish information concerning municipal jails.
To Committee on County Affairs.

By Khoury:
HCR 248, Granting A-1 Fire and Safety Equipment Company, Inc., permission to sue the Titus County Memorial Hospital.
To Committee on Judicial Affairs.

By W. Martinez:
HR 374, In memory of Damaso Salinas Hernandez.
To Committee on Rules and Resolutions.

By Barrientos:
HR 380, Commending the Familia Gonzales, Mariachi Infantil Guadalupano.
To Committee on Rules and Resolutions.

By Denton:
HR 381, Commending Bob M. Johnson.
To Committee on Rules and Resolutions.

SENATE BILL ON FIRST READING
The following senate bill was today laid before the house, read first time and referred to committee:

SB 899 to Committee on Higher Education.

HOUSE BILL ON FIRST READING
The following house bill was today laid before the house, read first time and referred to committee:

By D. Harrison:
HB 2439, A bill to be entitled An Act relating to certain contracts executed by and the qualifications for membership on the board of directors of Val Verde County Hospital District.
To Committee on County Affairs.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER
The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 1020, HB 1376, HB 1406, HCR 139, HCR 156, HCR 178, HCR 186, HCR 187, HCR 188, HR 193, HCR 196, HCR 234, HCR 235

HR 384 - ADOPTED
Representative Uher moved that all necessary rules be suspended to take up and consider at this time, HR 384.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Uher:

HR 384

WHEREAS, Representative Jerry Clark is today, May 12, 1983, one year away from starting his third score of years; now, therefore, be it
RESOLVED, That the Texas House of Representatives congratulate him on his successful climb to the mesa of 39. For it is on this timeless mesa where he will spend the rest of his life; and, it is with this mesa to which he must be compared:

The mesa has a variety of crops growing on it, just as Jerry's mind is open for new and varying ideas to be planted and cultivated so that they can grow skyward to fruition.

The mesa is exposed to the natural forces which try to grind it down, as is a leader of society; but both must demonstrate the strength and resolve to stand against these forces.

The mesa is used for many purposes:

- for growing the crops and for grazing the cattle needed as sustenance for society.
- for schools to educate the coming generations.
- for different churches where we can each worship in our own way, and for residences to live our private lives as we see fit.
- for businesses and industries that provide the foundation on which our economy is based, and for governmental offices where varying interests are melted down into public policy to serve the best interests of society.

As the mesa is used for these many purposes, so has Jerry Clark used his abilities to pursue knowledge on a multitude of subjects that parallel the uses of the mesa:

- he has been a successful farmer and dairymen for 14 years;
- his strong commitment to education led him to receive a degree in Speech and Communications;
- his religious faith directed him to be a Baptist lay speaker;
- he is a devoted family man, husband to the former Janette Hicks and father to Jerilyn and Joel;
- his business interests include the family dairy, a tractor dealership and other East Texas financial ventures;
- his governmental concerns brought him to Austin in March 1978 as State Representative to best project and defend the interests of the people of Hardin and Jasper counties and the northern part of Jefferson County.

In all of these successful uses of his ability, Jerry Clark has been like the mesa; each has, indeed, grown older, but both have withstood the test of time.

Be it further
RESOLVED, That the House of Representatives of the 68th Legislature hereby wish the Honorable Jerry Clark a Happy Birthday and a fulfilling life as he explores the multifaceted opportunities of and accepts the challenges of the mesa of 39.

Be it further
RESOLVED, That an official copy of this resolution be prepared for Representative Clark as a token of good wishes from the members of the House of Representatives.

The resolution was adopted without objection.

On motion of Representative Khoury, the names of all the members of the house were added to HR 384 as signers thereof.
HB 1863 - RECOMMENDED TO COMMITTEE

Representative Simpson moved to recommit HB 1863 to the Committee on Insurance.

The motion prevailed without objection.

HB 1121 WITH SENATE AMENDMENTS

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

HB 1121, A bill to be entitled An Act relating to the tabulation of unofficial returns in certain races by the secretary of state and to the time for convening political party precinct conventions.

Representative Schlueter moved that the house do not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1121 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on HB 1121: Schlueter, chair; E. F. Lee, Saunders, Messer, and Wilson.

(Turner in the chair)

HB 2437 ON SECOND READING

Speaker Lewis moved that all necessary rules be suspended to take up and consider at this time, HB 2437.

The motion prevailed without objection.

The chair laid before the house on its second reading and passage to engrossment,

HB 2437, A bill to be entitled An Act relating to a pilot program for experimental liver transplants for infants and small children.

The bill was read second time and was passed to engrossment.

(B. Gibson now present)

HB 2437 ON THIRD READING

Speaker Lewis moved that the constitutional rule requiring bills to be read on three several days be suspended and that HB 2437 be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 367): 128 Yeas, 4 Nays, 0 Present, not voting.

Yeas — Mr. Speaker; Agnew; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley;
Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison, D.; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hinojosa; Hollowell; Horn; Hudson, D.; Hury; Jones; Keller; Kemp; Khoury; Kubiat; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Parker; Patronella; Patterson; Pennington; Pierce; Polk; Polumbo; Presnal; Price; Rangel; Robinson; Robnett; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner(C); Valles; Vowell; Waldrop; Wallace; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nays — Clemons; Fox; Smith, C.; Watson.
Absent, Excused — Crockett; Rudd.

Absent — Berlanga; Evans, L.; Geistweidt; Green; Hammond; Heflin; Hill, P.; Hudson, S.; Jackson; Messer; Oliver; Patrick; Peveto; Ragsdale; Uber; Wolens.

The chair then laid HB 2437 before the house on third reading and final passage.

A record vote was requested.

The bill was read third time and was passed by (Record 368): 130 Yeas, 3 Nays, 0 Present, not voting.

Yeas — Mr. Speaker; Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cazovos; Cleverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hinojosa; Hollowell; Horn; Hudson, D.; Hury; Jones; Keller; Kemp; Khoury; Kubiat; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Rangel; Robinson; Robnett; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Short; Smith, A.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner(C); Uber; Valles; Vowell; Waldrop; Wallace; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nays — Fox; Smith, C.; Watson.
Absent, Excused — Crockett; Rudd.

Absent — Berlanga; Delay; Geistweidt; Green; Heflin; Hill, P.; Hudson, S.; Jackson; Luna; Messer; Patrick; Ragsdale; Shea; Simpson; Wolens.

(L. Evans now present)

The chair stated that HB 2437 was passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.
LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business:

Green on motion of D. Lee.

SB 612 - REQUEST OF SENATE GRANTED

On motion of Representative Wright, the house granted the request of the senate for the appointment of a conference committee on SB 612.

SB 612 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on SB 612: Wright, chair; Hammond, Arnold, Patronella, and Russell.

HR 376 - ADOPTED

Representative R. Martinez moved that all necessary rules be suspended to take up and consider at this time, HR 376.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By R. Martinez:

HR 376

WHEREAS, Representative David Patronella is today celebrating the anniversary of his birth, which occurred on May 12, 1957, in Houston; and

WHEREAS, Our esteemed colleague from Houston is enjoying his first term in the Texas House and, we understand, enjoying his bachelorhood; and

WHEREAS, Despite his understated generosity in assisting confused colleagues during a vote and despite his unconscious inclination to wear designer shirts and ties, this esteemed lawmaker has achieved the respect of his fellow legislators for his valuable contributions to the legislative process; and

WHEREAS, A graduate of the University of Houston Law School, Representative Patronella’s career was greatly influenced by his family: his father, Charles; his mother, Paula; his brother, Larry; and his two sisters, Cathy and Mary; now, therefore, be it

RESOLVED, That the House of Representatives of the 68th Texas Legislature hereby congratulate the Honorable David Patronella on the celebration of his 26th Birthday and commend him on his exceptional service to the state; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Representative Patronella as a token of sincere wishes from his friends in the Texas House of Representatives.

The resolution was adopted without objection.

On motion of Representative J. Gibson, the names of all the members of the house were added to HR 376 as signers thereof.

SB 283 - REQUEST OF SENATE GRANTED

On motion of Representative T. Smith, the house granted the request of the senate for the appointment of a conference committee on SB 283.
SB 283 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on SB 283: T. Smith, chair; Hightower, Granoff, Uher, and C. Evans.

HR 385 - ADOPTED

Representative Haley moved that all necessary rules be suspended to take up and consider at this time, HR 385.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Haley:

HR 385

WHEREAS, On May 12, 1950, John Ray Keller, Sr., and his wife, Marie Oden Keller, were blessed with the birth of their first child, John Ray Keller, Jr.; and
WHEREAS, Raised in Dallas County, Ray attended local schools and was graduated from Tulane University with a degree in political science; and
WHEREAS, Upon graduation, Ray returned once again to Dallas where he began his rising career as a residential development mogul and custom home construction expert; and
WHEREAS, In 1978, Ray was elected to the Texas House of Representatives; and
WHEREAS, A graduate of the John Connally School of Political Identity, Ray has continued to prove his statesmanship and adaptability through two full terms and as many parties; and
WHEREAS, Neither city life nor politics could sour Ray’s affection for the open range, where he is a partner, consultant, and apprentice cowboy for the Primrose Ranch and Cattle Company in Athens, Texas; and
WHEREAS, A dedicated servant of the community, Ray serves on the Board of Directors of the North East Texas Cystic Fibrosis Foundation, and the Dallas Woods and Water Club. He is also a member of the Steering Committee of the Animal Rehabilitation Center; and
WHEREAS, In 1981, Ray was a recipient of the “Outstanding Young Men of America” award presented by the National Jaycees; and
WHEREAS, Ray’s many hobbies include cowpunching, fishing, hunting, and pari-mutuel horseracing; and
WHEREAS, Ray has been known on at least one occasion to wander into his capitol office with an unidentified woman’s shoe; and
WHEREAS, Ray’s many close friends and relatives include his brother, William Victor; his sister, Dorothy Kay; nieces and nephews, Adam Clayton, Amy Leigh, and Jason Andrew; Cows: Dolly, Ray Baby, Gorgeous, Primadonna, Lillian, Double Ugly, Psycho, and Frosty; and his unforgettable bulls, Peterbilt and “The Governor”; and
WHEREAS, In the proud defense of his honor and colleagues, “Sugar Ray” Keller has been known to show unruly lobbyists the errors of their ways; and
WHEREAS, This respected lawmaker has emerged as an influential leader in the house by making noteworthy contributions as a member of the State Affairs Committee; and, as chairman of the Law Enforcement Committee, he has been devoted to maintaining confidence in the criminal justice system; now, therefore, be it
RESOLVED, That the House of Representatives of the 68th Legislature of the State of Texas, hereby congratulate the Honorable Ray Keller on the anniversary of his birth; and, be it further
RESOLVED, That official copies of this resolution be prepared for Representative Keller and his family as a token of highest esteem from the Texas House of Representatives.

The resolution was adopted without objection.

On motion of Representative Emmett, the names of all the members of the house were added to HR 385 as signers thereof.

SB 682 ON THIRD READING
(J. Gibson - House Sponsor)

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

SB 682, A bill to be entitled An Act relating to the microfilm preservation of records made or received by local governments, to the preservation and retention of historical resources in a depository, to certain powers and duties of the Texas State Library and Archives Commission, Regional Historical Resource Depository and Local Records Division, and the State Librarian, and to the force and effect of such microfilm records; amending Chapter 503, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 5442b, Vernon's Texas Civil Statutes); repealing Section 8 of Chapter 503 and any other laws in conflict with this Act.

The bill was read third time and was passed.

HJR 72 ON THIRD READING

HJR 72, A joint resolution proposing a constitutional amendment authorizing the issuance of general obligation bonds for financing the construction of storage facilities for agricultural products.

(Speaker in the chair)

(Rudd now present)

The vote of the house was taken on the adoption of HJR 72 and the vote was announced yeas 105, nays 35.

(Speaker pro tempore in the chair)

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted as follows (Record 369): 102 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barton, B.; Barton, E.; Berlanga(C); Bomer; Burnett; Bush; Cain; Carriker, Cary; Cavazos; Clark; Clemmons; Colbert; Collazo; Coody; Criss; Danburg; Davis; Dela; Delco; Denton; Eekels; English; Evans, L.; Finnell; Games; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Harrison, D.; Harrison, W.; Hernandez; Hightower; Hill, G.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jones; Keller; Kemp; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Luna; Madia; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Peveo; Pierce; Polk; Presnal; Price; Rangel; Robinson; Rudd; Russell; Salinas; Saunders; Schlueter; Shaw Short; Simpson; Smith, C.; Smith, T.; Stiles; Sutton; Tejeda; Thompson, S.; Uher; Valles; Vowell; Wallace; Watson; Wieting; Willis; Wilson; Wolens; Word.

Nays — Agnich; Blanton; Ceverha; Connelly; Craddick; Eikenburg; Emmett; Evans, C.; Fox; Geistweidt; Hammond; Hanna; Hellin; Hilbert; Hill, P.;
Hollowell; Horn; Jackson; Khoury; Leonard; McKenna; McWilliams; Mankins; Millsap; Pennington; Polumbo; Schoolcraft; Shea; Smith, A.; Staniswalis; Thompson, G.; Toomey; Tow; Waldrop; Wright.

Present, not voting — Mr. Speaker.

Absent, Excused — Crockett; Green.

Absent — Barrientos; Buchanan; Edwards; Hill, A.; Messer; Patrick; Ragsdale; Robnett; Turner; Whaley.

By unanimous consent, the house dispensed with the verification of those voting nay.

The chair stated that HJR 72 was adopted by the above vote.

STATEMENT BY REPRESENTATIVE TURNER

I was off the floor of the house at the time the vote was taken on HJR 72. Had I been present I would have voted yes.

Turner

MESSAGE FROM THE SENATE

Austin, Texas, May 12, 1983

The Honorable Speaker of the House of Representatives

House Chamber

The Honorable

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

Local and Uncontested Calendar

SB 317 by Parmer, relating to solid waste management.

SB 1215 by Brooks, relating to distribution of a fire fighter’s relief and retirement benefits in certain cities; and declaring an emergency.

SB 1371 by Blake, relating to the authority of the board of directors of the Nacogdoches County Hospital District.

SB 515 by Mauzy, relating to eligibility for the governing committee and selection of servicing companies for the Texas workers’ compensation assigned risk pool.

SB 564 by Washington, relating to the inheritance rights of an illegitimate child who is equitably adopted.

SB 647 by Jones, relating to the adoption of rules by the Texas Cosmetology Commission regarding continuing education programs for persons licensed by the commission.

SB 742 by Washington, relating to disclosure in a criminal case of a confidential communication of a clergyman.

SB 776 by Traeger, relating to capital and surplus requirements of insurance companies other than certain life, health, or accident insurance companies.

SB 855 by Traeger, relating to the requirement of permits for the transportation of water from the district.

SB 870 by Jones, relating to the authority of water control and improvement districts to borrow money through certain methods.

SB 880 by Mauzy, relating to the appointment, qualifications, use, compensation, and authority of masters on certain district courts in Dallas County.
SB 921 by Doggett, relating to charges for the return of certain checks following their dishonor.
SB 925 by Doggett, relating to the regulation of auctioneers.
SB 943 by Traeger, relating to the terms of office of directors of general law districts.

Respectfully,
Betty King
Secretary of the Senate

HB 594 ON THIRD READING
The chair laid before the house on its third reading and final passage.

HB 594, A bill to be entitled An Act relating to certification requirements for aircraft crash and rescue fire fighters; providing a penalty.

The bill was read third time.
Representative Millsap offered the following amendment to the bill:
Amend HB 594 on third reading by inserting "who, as a permanent duty assignment," between "municipality and" and "fights aircraft fires" in the last sentence of added subsection (j).

The amendment was adopted without objection.

HB 594, as amended, was passed.

HB 888 ON THIRD READING
The chair laid before the house on its third reading and final passage.

HB 888, A bill to be entitled An Act relating to a court’s continuing jurisdiction over a prisoner sentenced to the Texas Department of Corrections and to the authority of a court to sentence the defendant to the department with a period of probation commencing on release from the department.

The bill was read third time and was passed. (Schlueter recorded voting no)

HB 1517 ON THIRD READING
The chair laid before the house on its third reading and final passage.

HB 1517, A bill to be entitled An Act relating to the duty of a county to provide physical facilities, equipment, and utilities for offices of the Texas Adult Probation Commission.

The bill was read third time and was passed. (Toomey, McKenna, Ceverha, and Fox recorded voting no)

HB 1428 ON THIRD READING
The chair laid before the house on its third reading and final passage.

HB 1428, A bill to be entitled An Act relating to the listing of a leasehold or other possessory interest in exempt property.

The bill was read third time and was passed. (Hury recorded voting no)

HB 1038 ON THIRD READING
The chair laid before the house on its third reading and final passage.

HB 1038, A bill to be entitled An Act relating to the consolidation of duties in connection with voter registration and the conduct of elections in the office of the county clerk or county tax assessor-collector.
May 12, 1983

The bill was read third time and was passed.

**HB 1178 ON THIRD READING**

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

**HB 1178,** A bill to be entitled An Act relating to presentence investigations and reports in criminal cases.

The bill was read third time and was passed. (Toomey, McKenna, Ceverha, and A. Smith recorded voting no)

**HB 896 ON THIRD READING**

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

**HB 896,** A bill to be entitled An Act relating to unemployment compensation and the taxes levied for benefits and for the principal of and interest on federal advances.

The bill was read third time and was passed. (Craddick, Toomey, Heflin, Fox, and Clark recorded voting no)

**HB 2224 ON THIRD READING**

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

**HB 2224,** A bill to be entitled An Act relating to the filing of the court reporter's nontranscribed notes with the district clerk in certain criminal cases.

The bill was read third time and was passed. (Ceverha recorded voting no)

**HB 570 ON THIRD READING**

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

**HB 570,** A bill to be entitled An Act relating to continuing education requirement for a county treasurer.

The bill was read third time and was passed. (Ceverha recorded voting no)

**HB 1964 ON THIRD READING**

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

**HB 1964,** A bill to be entitled An Act relating to the reservation of minerals by the state and other conditions for the sale, lease, and prospect of state land.

A record vote was requested.

The bill was read third time and was passed by (Record 370): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cavazos; Ceverha; Clark; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, T.; Hall, W.; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinjosa; Horn; Hudson, D.; Hudson, S.; Hurley; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap;
Present, not voting — Mr. Speaker; Hollowell.

Absent, Excused — Crockett; Green.

Absent — Bush; Cary; Clemons; Hall, L.; Hammonds; Patrick.

**HB 1536 ON THIRD READING**

The chair laid before the house on its third reading and final passage, HB 1536, A bill to be entitled An Act relating to the creation, administration, and operation of the fire department emergency program under jurisdiction of the fire department emergency board.

The bill was read third time.

Representative Simpson offered the following amendment to the bill:

Amend HB 1536 by striking the words “and allied lines” on line 1, page 4.

The amendment was adopted without objection.

HB 1536, as amended, was passed. (Fox recorded voting no)

**HB 411 ON THIRD READING**

The chair laid before the house on its third reading and final passage, HB 411, A bill to be entitled An Act relating to funds received under a court order from a probationer for compensation to victims of crime.

The bill was read third time.

Representative T. Smith offered the following amendment to the bill:

Amend the engrossed copy, 3rd reading of HB 411 in the following ways:
(1) On page 2, line 4, strike “last” and insert “first” in its place.
(2) On page 2, line 5, after “victim” insert “after full restitution has been made,” and strike “was made,.”

The amendment was adopted without objection.

HB 411, as amended, was passed.

(Speaker in the chair)

**HB 1956 ON THIRD READING**

The speaker laid before the house on its third reading and final passage, HB 1956, A bill to be entitled An Act relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

A record vote was requested.

The bill was read third time and was passed by (Record 371): 128 Yeas, 11 Nays, 1 Present, not voting.
Yeas - Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cavazos; Ceverha; Clark; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; DeLay; Delco; Denton; Eddins; Edwards; Eikenburg; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, W.; Hanna; Harrison, D.; Harrison, W.; Hefflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Khoury; Kuempel; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Mads; Mankins; Martinez, R.; Martinez, W.; Messer; Milkap; Moreno, A.; Oliveira; Oliver; Parker; Patronella; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robnett; Rudd; Russell; Salinas; Sanders; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Valles; Vowell; Wallace; Watson; Whaley; Willis; Wilson; Wolens; Word; Wright.

Nays - Gibson, J.; Hall, T.; Kemp; Kubiak; Lanej; Moreno, P.; Pattenson; Simpson; Uher; Waldrop; Wieting.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crockett; Green.

Absent — Cary; Clemens; Emmett; Hammond; Hill, G.; Patrick; Robinson; Schlueter.

STATEMENT BY REPRESENTATIVE SHAW

On record vote 371 on HB 1956 my machine malfunctioned and showed me voting Aye when I intended to vote no. I was unable to get to the front desk to correct it before voting was closed.

Shaw

HB 1157 ON THIRD READING

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

HB 1157, A bill to be entitled An Act relating to the authority of a commissioners court to permit the revision of a subdivision plat or cancellation of a subdivision.

The bill was read third time and was passed.

HB 1180 ON THIRD READING

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

HB 1180, A bill to be entitled An Act relating to the authority of the State Purchasing and General Services Commission to use the competitive sealed proposal method in making certain open market purchases and in leasing space from a private source.

The bill was read third time and was passed.

HB 1511 ON THIRD READING

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

HB 1511, A bill to be entitled An Act relating to the regulation of bees, beekeepers, and honey; providing penalties.
The bill was read third time and was passed. (Toomey recorded voting no)

HB 1669 ON THIRD READING

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

HB 1669, A bill to be entitled An Act relating to the jurisdiction of the 9th, the Second 9th, and the 258th District Courts in Polk County and to the compensation of the judges of those courts.

The bill was read third time and was passed.

HB 1555 ON THIRD READING

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

HB 1555, A bill to be entitled An Act relating to eligibility for unemployment compensation benefits for certain students.

The bill was read third time and was passed.

HB 158 ON THIRD READING

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

HB 158, A bill to be entitled An Act relating to the administration and financing of a program to provide representation by counsel and transcription services for indigent defendants in criminal cases.

The bill was read third time and was passed. (Russell, D. Lee, Khoury, Geistweidt, and DeLay recorded voting no)

The speaker stated that HB 158 was passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

HB 2008 ON THIRD READING

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

HB 2008, A bill to be entitled An Act relating to revision of the criminal laws relating to the offenses of rape, aggravated rape, rape of a child, sexual abuse, aggravated sexual abuse, and sexual abuse of a child; redefining those offenses as assaultive offenses and revising the elements of, penalties for, and period of limitation applicable to those offenses; and revising certain terms in the assault and aggravated assault provisions relating to the gender of the actor or victim.

The bill was read third time and was passed. (Ceverha recorded voting no)

HB 2045 ON THIRD READING

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

HB 2045, A bill to be entitled An Act relating to the punishment for the offense of cruelty to animals.

A record vote was requested.

The bill was read third time and was passed by (Record 372): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; B. Barrientos; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, M.; Gavin; Geistweidt;
May 12, 1983

Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hightower; Hilbert; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khouri; Kubiak; Kucmpel; Laney; Lee, D.; Leonard; Luna; McKenna; McWilliams; Maldia; Mankins; Martinez, R.; Messer; Millsap; Moreno, A.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragusa; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Sutton; Tejeda; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

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

Absent, Excused — Crockett; Green.

Absent — Agnich; Berlanga; Cary; Garcia, A.; Heflin; Hernandez; Hill, A.; Lee, E. F.; Martinez, W.; Moreno, P.; Patrick; Stiles; Thompson, G.

HB 1792 ON THIRD READING

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

HB 1792, A bill to be entitled An Act relating to the administration of public employee benefit programs.

The bill was read third time and was passed.

HB 2352 ON THIRD READING

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

HB 2352, A bill to be entitled An Act relating to the elements of and punishment for the offense of commercial bribery.

The bill was read third time and was passed.

HB 2118 ON THIRD READING

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

HB 2118, A bill to be entitled An Act relating to private mortgage guaranty insurance issued pursuant to Article 21.50, Insurance Code; amending Sections 1, 2, and 7 of Article 21.50.

The bill was read third time and was passed.

HB 1580 ON THIRD READING

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

HB 1580, A bill to be entitled An Act relating to taxpayer's remedies in the judicial review of certain property tax determinations.

The bill was read third time and was passed.

HB 1310 ON THIRD READING

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

HB 1310, A bill to be entitled An Act relating to judicial review of certain orders issued by the Alcoholic Beverage Commission.

The bill was read third time and was passed.
HB 828 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 828, A bill to be entitled An Act relating to the compensation and
allowances of county auditors in certain counties.

The bill was read third time and was passed. (Burnett, Gavin, Patterson,
Kubiak, Robnett, and Simpson recorded voting no)

HB 2153 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 2153, A bill to be entitled An Act relating to the issuance of warrants or
notes by certain cities and towns to pay their current expenses.

The bill was read third time and was passed.

HB 2102 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 2102, A bill to be entitled An Act relating to the powers of the Board of
Regents of The University of Texas System to fix the rate of incidental student fees.

The bill was read third time and was passed.

HB 1550 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 1550, A bill to be entitled An Act relating to access by institutions of higher
education to police records of applicants for employment.

The bill was read third time and was passed.

HB 1518 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 1518, A bill to be entitled An Act relating to the transfer of prisoners
between jails and other facilities for the purpose of reducing jail overcrowding.

The bill was read third time and was passed. (Toomey, McKenna, and Ceverha
recorded voting no)

HB 1401 ON THIRD READING
The speaker laid before the house on its third reading and final passage,
HB 1401, A bill to be entitled An Act relating to a refund made to an employer
for unemployment compensation benefits paid to a disqualified employer.

The bill was read third time.

Representative Leonard offered the following amendment to the bill:

Amend HB 1401 on page 4 by adding a new Section 2 to read as follows:
SECTION 2. Subsection (b) of Section 7-A, Texas Unemployment
Compensation Act, as amended (article 5221b-5a, Vernon's Texas Civil Statutes),
is amended to read as follows:
(b) Payments by a Reimbursing Employer: At the end of each calendar
quarter the Commission shall bill each reimbursing employer for an amount equal
to the amount of the regular benefits paid during such quarter which are attributable
to service in the employ of such employer, and reimbursements shall be paid by the
reimbursing employer to the Commission for the fund in accordance with such rules as the Commission shall prescribe. An employer which has elected to pay reimbursements under subsection 8(b)(1), 8(b)(2), or 8(b)(3) of this Act shall also pay, in accordance with such rules, an amount equal to thirty dollars ($30.00) for each claim which is ultimately found to be valid submitted to the Commission. Amounts so received shall be deposited in the Unemployment Compensation Administration Fund, and shall constitute fees for coverage and administration under such elections.

Renumber existing Section 2 as Section 3.

The amendment was adopted without objection.

HB 1401, as amended, was passed.

HB 1769 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 1769, A bill to be entitled An Act relating to imposition of a fee by the Texas Department of Water Resources to be used to pay expenses of inspection of waste treatment facilities.

The bill was read second time.

Representative Buchanan offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1769 as follows:

(1) On page 1, line 11, strike “to pay the” and substitute “to supplement any other funds available to pay”.

(2) On page 1, line 22, insert the following between “used” and “for”: “to supplement any other funds available”.

Committee Amendment No. 1 was adopted without objection.

Representative Buchanan offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend HB 1769 by deleting the period after the word “facilities” on Line 12, Page 1, and inserting the following: “and enforcing the laws of the State, and the rules of the Texas Department of Water Resources, governing waste discharge and waste treatment facilities.”

Committee Amendment No. 2 was adopted without objection.

Representative Buchanan offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 3

Amend HB 1769 on Line 24, Page 1, by deleting the word “commission” and inserting in lieu thereof the word “board.”

Committee Amendment No. 3 was adopted without objection.

Representative Buchanan offered the following committee amendment to the bill:
Amend HB 1769 as follows:
(1) On page 1, strike lines 14 through 18 and substitute the following:
(b) The board, by rule, shall adopt a fee schedule for determining the amount of the fee to be charged. The fee schedule shall be based on the average volume of discharge specified in permits issued under this chapter. A minimum fee shall be charged for each permit, including a permit that provides for no discharge. Charges above the minimum fee shall be based on the quantity of discharge. The board may not charge a fee under a permit in an amount that exceeds $2,000 a year.

Committee Amendment No. 4 was adopted without objection.

HB 1769, as amended, was passed to engrossment. (Craddick, Hanna, Agnich, Hightower, Russell, and Word recorded voting no)

(Speaker pro tempore in the chair)

HB 487 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 487.

CSHB 487

A BILL TO BE ENTITLED
AN ACT

relating to rules governing solid waste, including hazardous waste and Class 1 industrial solid waste.

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

SECTION 1. Section 4(c), Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:
(c) Each state agency may adopt and promulgate rules consistent with the general intent and purposes of this Act, and establish minimum standards of operation for all aspects of the management and control of the solid waste over which it has jurisdiction under this Act. In developing rules relating to hazardous waste, each state agency shall consult with the State Soil and Water Conservation Board, the Bureau of Economic Geology of The University of Texas at Austin, and other appropriate state sources. Within one year after the effective date of this Act, each state agency shall adopt rules that:
(1) condition issuance of a permit for a new hazardous waste management facility or the area expansion of an existing hazardous waste management facility on selection of a facility site that reasonably minimizes possible contamination of surface water and groundwater;
(2) define the characteristics that make an area unsuitable for a hazardous waste management facility including, but not limited to, consideration of:
   (A) flood hazards;
   (B) discharge from or recharge to a groundwater aquifer;
   or
   (C) soil conditions;
(3) prohibit issuance of a permit for a new hazardous waste management facility or an area expansion of an existing hazardous waste management facility if the facility is to be located in an area determined to be unsuitable under rules adopted by the agency unless the design, construction, and operational features of the facility will prevent adverse effects from unsuitable site characteristics; and
(4) require persons who generate, transport, process, store, or dispose of Class I industrial solid waste or hazardous waste to provide recordkeeping and use a manifest or other appropriate system to assure that such wastes are transported to a processing, storage, or disposal facility permitted or otherwise authorized for that purpose.

In adopting rules under paragraphs (1)-(3) of this section, the state agencies may distinguish between solid waste facilities based on type or hazard of hazardous wastes managed and the type of waste management method used.

SECTION 2. A rule adopted under the Solid Waste Disposal Act (Article 4477-7, Vernon’s Texas Civil Statutes), as amended by this Act, applies only to an application for a permit filed on or after the effective date of rules promulgated under Section 1.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 487 was read second time and was passed to engrossment.

(Speaker in the chair)

HB 2427 - POSTPONED

Representative Tow moved that consideration of HB 2427 be postponed until 2 p.m. today.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 12, 1983

The Honorable Speaker of the House of Representatives
House Chamber
The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

Local and Uncontested Calendar

SB 1384 by Parker, relating to the creation of the North Cheek Sewage District.
SB 1386 by Parker, relating to the creation of the North LaBelle Sewage District.
SB 1401 by Blake, relating to the provision of telecommunications service to the state government.
SB 1402 by Blake, relating to the boundaries of the Livingston Hospital District of Polk County, Texas.
SCR 98 by Brooks, establishing an interagency Autism Task Force.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to SB 294 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Caperton, Chairman, Howard, Henderson, McFarland, Edwards
Local and Uncontested Calendar

SB 649 by Brown, relating to the authority and duties of a city relating to owning, operating and financing garbage reclamation projects.

SB 668 by Parmer, relating to the clarification of violations of consumer protection acts relating to debt collection and home solicitation transactions as deceptive trade practices.

SB 775 by Traeger, relating to the capital and surplus requirements for life, health and accident insurance companies.

SB 927 by Jones, relating to the regulation of job protection and certain health, accident and disability insurance.

SB 963 by McFarland, relating to the reorganization of Dallas County Municipal Utility District No. 1.

SB 1083 by Caperton, relating to entry of certain orders and reports in the minutes of the courts of appeals.

SB 1334 by Truan, relating to payment of the salary of the official court reporter for the 105th Judicial District.

SB 1335 by Truan, relating to the creation of the County Court at Law No. 4 of Nueces County.

SB 1359 by Williams, relating to the creation and functions of domestic relations offices in counties having a population in excess of 2,000,000.

SB 1381 by Parker, relating to the creation of the Broussard Sewage District.

SB 1382 by Parker, relating to the creation of the Fannett Sewage District.

SB 1383 by Parker, relating to the creation of the Hillebrandt Sewage District.

SB 1167 by Glasgow, relating to authorizing the issuance of short term obligations by certain cities' river authorities and joint power agencies.

SB 1194 by Farabee, relating to establishment of a juvenile board for Jones County.

SB 1225 by Jones, relating to liability insurance for county officers and employees.

SB 1281 by Santiesteban, relating to the county courts at law in El Paso County.

SB 1283 by Parker, providing for the conversion of a navigation district acting under Article III, Section 52 of the Constitution of the State of Texas into a navigation district acting under Article 16, Section 59 of the Constitution of the State of Texas.

Respectfully,

Betty King
Secretary of the Senate

LEAVE OF ABSENCE GRANTED

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

Eckels on motion of Connelly.

HB 956 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 956, A bill to be entitled An Act relating to certification requirements for law enforcement officers elected under the Texas Constitution.

The bill was read second time.
Representative Burnett offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 956 on page 4, SECTION 2, lines 19, 20, 21, and 22 by inserting the deleted language: nor shall anything herein be construed to affect any sheriff, constable or other law enforcement officer elected under the provisions of the Constitution of the State of Texas.

And by adding the phrase, prior to September 1, 1983, after the word Texas, on line 22 of SECTION 2, page 4.

Committee Amendment No. 1 was adopted without objection.

HB 956, as amended, was passed to engrossment.

HB 718 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 718, A bill to be entitled An Act relating to the class of persons not qualified to vote.

The bill was read second time.

Representative Rudd offered the following amendment to the bill:

Amend HB 718 by striking lines 14 and 15 and substituting the following:

4. Persons who have been convicted of a felony, for a period ending on the 8th anniversary of the date on which the person:
   (A) received a certificate of discharge by the Board of Pardons and Paroles;
   or
   (B) completed a period of probation ordered by a court.

The amendment was adopted without objection.

A record vote was requested.

HB 718, as amended, was passed to engrossment by (Record 373): 104 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Armbrister, Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Clark; Colbert; Collazo; Coody; Criss; Danburg; Davis; DeLay; Delco; Denton; Edwards; Eikenburg; English; Evans, C.; Evans, L.; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Harrison, D.; Heflin; Hernandez; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hudson, S.; Jackson; Kemp; Kubiak; Lee, D.; Lee, E. F.; Leonard; Luna; McWilliams; Mata; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Peveto; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robnett; Russell; Salinas; Shaw; Shea; Short; Simpson; Smith, T.; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Tow; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wolens; Word.

Nays — Agnich; Ceverha; Clemons; Connelly; Craddock; Emmett; Finnell; Fox; Geistweidt; Hanna; Harrison, W.; Hightower; Hollowell; Hudson, D.; Hury; Jones; Keller; Khoury; Kuempel; Laney; McKenna; Mankins; Parker; Patterson;
Present, not voting — Mr. Speaker(C).
Absent, Excused — Crockett; Eckels; Green; Wilson.
Absent — Berlanga; Bush; Hilbert; Horn; Patrick; Saunders.

LEAVE OF ABSENCE GRANTED

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

Wilson on motion of Berlanga.

SB 1371 - RULES SUSPENDED

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider SB 1371.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Liquor Regulation, Subcommittee on HB 511, on noon recess today, Desk 57, to consider HB 511.

State Affairs, on noon recess today, Desk 97, to consider subcommittee reports.

State Affairs, Subcommittee on HB 1295, on noon recess today, Desk 7, to consider HB 1295.

State Affairs, Subcommittee on HB 214, on noon recess today, Desk 7, to consider HB 214.

Business and Commerce, Subcommittee on Workers Compensation, on noon recess today, Desk 90, to consider HB 2081.

RECESS

Representative Watson moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 11:57 a.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker pro tempore.

(Green now present)

HB 2076 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2076.

CISHB 2076

A BILL TO BE ENTITLED
AN ACT
relating to certain school district property tax revenues to be used by a junior college district operated by the school district.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 20.48, Texas Education Code, is amended by adding
Subsection (e) to read as follows:

(e) The governing body of an independent school district that governs a junior
college district under Subchapter B, Chapter 130, of this code in a county with a
population of more than one million may dedicate a specific percentage of the local
tax levy to the use of the junior college district for facilities and equipment or for
the maintenance and operating expenses of the junior college district. To be
effective, the dedication must be made by the governing body on or before the date
on which the governing body adopts its tax rate for a year. The amount of local tax
funds derived from the percentage of the local tax levy dedicated to a junior college
district from a tax levy may not exceed the amount that would be levied by five
percent of the effective tax rate for the tax year calculated as provided by Section
26.04, Tax Code, on all property taxable by the school district. All real property
purchased with these funds is the property of the school district, but is subject to
the exclusive control of the governing body of the junior college district for as long
as the junior college district uses the property for educational purposes.

SECTION 2. Chapter 26, Tax Code, is amended by adding Section 26.085
to read as follows:

Sec. 26.085. ELECTION TO LIMIT DEDICATION OF SCHOOL FUNDS
TO JUNIOR COLLEGE. (a) If the percentage of the total tax levy of a school
district dedicated by the governing body of the school district to a junior college
district under Section 20.48(e), Texas Education Code, exceeds the percentage of
the total tax levy of the school district for the preceding year dedicated to the junior
college district under that section, the qualified voters of the school district by
petition may require that an election be held to determine whether to limit the
percentage of the total tax levy dedicated to the junior college district to the same
percentage as the percentage of the preceding year's total tax levy dedicated to the
junior college district.

(b) A petition is valid only if:

1. it states that it is intended to require an election on the question of
limiting the amount of school district tax funds to be dedicated to the junior
college district for the current year;
2. it is signed by a number of qualified voters of the school district
equal to at least 10 percent of the number of qualified voters of the school district
according to the most recent official list of qualified voters, not counting the
signatures of voters gathered by a person who received compensation for circulating
the petition; and
3. it is submitted to the governing body on or before the 90th day
after the date on which the governing body made the dedication to the junior college
district.

(c) Not later than the 20th day after the day a petition is submitted, the
governing body shall determine whether the petition is valid and pass a resolution
stating its finding. If the governing body fails to act within the time allowed, the
petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within
the time allowed), it shall order that an election be held in the school district on a
date not less than 30 or more than 90 days after the last day on which it could have
acted to approve or disapprove the petition. A state law requiring local elections to
be held on a specified date does not apply to the election unless a specified date falls
within the time permitted by this section. At the election, the ballots shall be
prepared to permit voting for or against the proposition: "Limiting the portion of
the (name of school district) tax levy dedicated to the (name of junior college
district) for the current year to the same portion that was dedicated last year."
(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the percentage of the total tax levy of the school district for the year to which the election applies dedicated to the junior college district is reduced to the same percentage of the total tax levy that was dedicated to the junior college district by the school district in the preceding year. If the proposition is approved by a majority of the qualified voters voting in an election to limit the dedication to the junior college district in a year following a year in which there was no dedication of local tax funds to the junior college district under Section 20.48(e), Texas Education Code, the school district may not dedicate any local tax funds to the junior college district in the year to which the election applies. If the proposition is not approved by a majority of the qualified voters voting in the election, the percentage of the total tax levy dedicated to the junior college district is the percentage adopted by the governing body.

SECTION 3. Sections 26.04(c) and (d), Tax Code, are amended to read as follows:

(c) An officer or employee designated by the governing body shall subtract from the total amount of property taxes imposed by the unit in the preceding year:

(1) the amount of taxes imposed in the preceding year to pay principal of and interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidences of indebtedness issued or assumed by the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the unit;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year; and

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year; and

(5) the amount of taxes imposed in the preceding year dedicated to the use of a junior college district under Section 20.48(e), Texas Education Code.

(d) The designated officer or employee shall calculate the tax rate that if applied to the total taxable value submitted to the governing body less the taxable value of new property would impose the amount of property taxes determined as provided by Subsection (c) of this section. He shall add to that rate the amount that, if applied to the total taxable value submitted to the governing body, will impose the amount of taxes needed to pay the principal of and interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidences of indebtedness issued or assumed by the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision. He shall also add to that rate the amount that, if applied to the total taxable value submitted to the governing body, would impose the amount of taxes needed for the governing body's dedication, if any, to a junior college under Section 20.48(e), Texas Education Code, for the current tax year.

SECTION 4. Section 26.08, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) For purposes of this section, local tax funds dedicated to a junior college district under Section 20.48(e), Texas Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085 of this code.
SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 2076 was read second time and was passed to engrossment.

**HB 1760 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment.

**HB 1760**, A bill to be entitled An Act relating to evidence admissible at a punishment hearing.

The bill was read second time and was passed to engrossment.

**HB 310 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment.

**HB 310**, A bill to be entitled An Act relating to the expenditure of the proceeds from airport revenue bonds by certain cities.

The bill was read second time and was passed to engrossment.

**HB 848 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment.

**HB 848**, A bill to be entitled An Act relating to the authority of the boards of regents of certain institutions of higher education to provide malpractice insurance to veterinary staff members and veterinary students.

The bill was read second time and was passed to engrossment. (Fox recorded voting no)

**HB 1914 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1914.

CSHB 1914

**A BILL TO BE ENTITLED AN ACT**

relating to penalties for tampering with oil and gas wells and certain associated equipment and for making certain false reports relating to certain oil and gas wells.

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

SECTION 1. Chapter 85, Natural Resources Code, is amended by adding Section 85.389 to read as follows:

Sec. 85.389. CRIMINAL PENALTY. (a) A person who is not the owner or operator of an oil well, gas well, or oil and gas well who knowingly destroys, breaks, removes, or otherwise tampers with or attempts to destroy, break, remove, or otherwise tamper with any cap, seal, or other device placed on an oil well, gas well, oil and gas well, or associated oil or gas gathering equipment by the owner or operator for the purpose of controlling or limiting the operation of the well or associated equipment commits an offense.

(b) An offense under this section is a felony of the third degree.
SECTION 2. Chapter 88, Natural Resources Code, is amended by adding Section 88.0531 to read as follows:

Sec. 88.0531. CRIMINAL PENALTY. (a) A person who knowingly violates Section 88.052 or 88.053 of this code commits an offense.

(b) An offense under this section is a Class A misdemeanor unless the actor has been convicted previously under this section, in which event the offense is a felony of the third degree.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1914 was read second time.

Representative Kemp offered the following amendment to CSHB 1914:

Amend CSHB 1914 as follows:

On page 1, line 9, after "or oil and gas well" insert "a purchaser under contract of oil, gas, or oil and gas from a well, a gatherer with written authorization from the owner, operator, or purchaser, or an authorized representative of the commission".

The amendment was adopted without objection.

CSHB 1914, as amended, was passed to engrossment.

HB 42 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 42.

CSHB 42

A BILL TO BE ENTITLED
AN ACT
relating to small claims court procedure in justice courts.

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

SECTION 1. A justice of the peace court may be known both as a justice court and as a small claims court. Matters may be addressed to the court either as the justice court or as the small claims court.

SECTION 2. Chapter 309, Acts of the 53rd Legislature, Regular Session, 1953 (Article 2460a, Vernon's Texas Civil Statutes), is repealed.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 42 was read second time.

Representative Schoolcraft offered the following amendment to CSHB 42:

Amend CSHB 42 by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 2, 5, 5a, and 11, Chapter 309, Acts of the 53rd Legislature, Regular Session, 1953 (Article 2460a, Vernon's Texas Civil Statutes), are amended to read as follows: Sec. 2. The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money by any person, association of persons, corporation or by any attorney for such parties, or other legal entity only where the amount
involved, exclusive of costs, does not exceed the sum of One Thousand Dollars ($1,000) [One Hundred and Fifty Dollars ($150); except that when the claim is for wages or salary earned; or for work or labor performed under any contract of employment, the jurisdictional amount, exclusive of costs, shall not exceed Two Hundred Dollars ($200)]. Provided, however, that no action may be brought in the Small Claims Court by any assignee of such action or upon any assigned claim or by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent. Provided, further, however, that nothing in this Act shall prevent the bringing of any action by a legal heir or heirs on any account or claim otherwise within the jurisdiction of these Courts.

Sec. 5. Upon the filing of the said affidavit and the payment of a [Three Dollar ($3)] filing fee, the Judge shall issue process in the same manner as any other case in Justice Court, service being by citation served by an officer of the State duly authorized to serve other citations. Service of citation may be made in any manner authorized for service of citation in a district or county court or justice court.

[The Three Dollar ($3) filing fee provided for in this Section, the Three Dollar ($3) jury fee provided for in Section 11 of this Act and the Two Dollar ($2) citation fee provided in Section 5a shall constitute the only fees or costs authorized to be charged in the Small Claims Court; provided, however, such fees shall constitute only the Court costs accruing up to and including entry of judgment in the Small Claims Court and do not affect any fee or Court cost accruing in any Court after the entry of said judgment and do not apply to any proceeding or execution after entry of judgment in said Court]

Sec. 5a. Fees in small claims court are the same as those provided by law for cases in justice court. [A fee of Two Dollars ($2) shall be charged for the service of citation provided for in Section 5 and shall be accountable as a fee of office by the officer serving citation]

Sec. 11. If either party desires a trial by jury he shall, at least one (1) calendar day prior to the date upon which the hearing is to be held, file with the Small Claims Court a request for a trial by jury, depositing with the judge, at the time such request is filed, a jury fee [of Three Dollars ($3)]. Thereupon, a jury shall be had as in other civil cases in the justice courts.

SECTION 2. This Act applies to all actions filed in the small claims courts on or after the effective date of this Act.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted without objection.

CSHB 42, as amended, was passed to engrossment.

HB 223 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 223.

CSHB 223

A BILL TO BE ENTITLED
AN ACT
relating to the joinder of offenses occurring in the same criminal episode.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 3.01, Penal Code, is amended to read as follows:
Sec. 3.01. DEFINITION. (a) In this chapter, "criminal episode" means the commission of two or more offenses, regardless of whether the harm is directed toward or inflicted upon more than one person or item of property, under the following circumstances:
(1) the offenses are committed pursuant to the same transaction; or
(2) the offenses are the repeated commission of:
(A) any one offense defined in Title 7 of this code (Offenses Against Property); or
(B) any one offense defined in Section 21.02, 21.03, 21.04, 21.05, 21.09, or 21.10 of this code.

SECTION 2. Section 3.04, Penal Code, is amended to read as follows:
Sec. 3.04. SEVERANCE. (a) Whenever two or more offenses have been consolidated or joined for trial under Section 3.01(1) or 3.01(2)(B) of this code, the court in its discretion may grant a petition of the defendant or the state for a severance of one or more of the offenses [the defendant shall have a right to a severance of the offenses]. Whenever two or more offenses have been consolidated or joined for trial under Section 3.01(2)(A) of this code, the defendant shall have a right to a severance of the offenses.
(b) In the event a [of] severance under this section is granted, the provisions of Section 3.03 of this code do not apply, and the court in its discretion may order the sentences to run either concurrently or consecutively.

SECTION 3. (a) The change in law made by this Act applies to the joinder of prosecutions of offenses arising out of a single criminal episode only if each offense occurs 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 the effective date.
(b) The joinder of prosecutions for offenses arising out of a single criminal episode where any offenses were committed before the effective date of this Act is covered by the law in effect when the offenses were committed, and the former law is continued in effect for this purpose.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 223 was read second time and was passed to engrossment.

HB 1750 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 1750, A bill to be entitled An Act relating to the minimum salary for a fireman, policeman, or member of a sheriff's department; providing a penalty.

The bill was read second time.

Representative Gandy offered the following amendment to the bill:

Amend HB 1750 as follows:
(1) On page 2, lines 23 and 24, strike "of more than five thousand (5,000) [in excess of ten thousand (10,000)]" and substitute "in excess of ten thousand (10,000)".
(2) On page 3, line 14, insert "at least sixty-five (65) days" after "occurs".
(3) On page 5, line 12, insert "at least sixty-five (65) days" after "occurs".
The amendment was adopted without objection.

Representative Toomey offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1750, page 3, line 9 to read as follows:

classification and the effective date of the proposed salary increase.

Except as prescribed by Subsection (d) of this.

Amend HB 1750, page 4, lines 1 and 2 to read as follows:

rank, pay grade, or classification, the affected department or

departments, and the effective date of the proposed salary increase

set forth in the petition mentioned above shall be

Committee Amendment No. 1 was adopted without objection.

HB 1750, as amended, was passed to engrossment. (Hollowell, Schlueter,

Rudd, Ceverha, Patterson, and Blanton recorded voting no)

HB 1186 ON SECOND READING

The chair laid before the house on its second reading and passage to

engrossment.

HB 1186, A bill to be entitled An Act relating to adoption of a nonsubstantive

revision of the statutes relating to civil procedure and civil remedies and liabilities.

The bill was read second time.

Representative Hinojosa offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1186 as follows:

(1) On page 28, line 2, strike “Section 16.061” and substitute “Section

16.062”.

(2) On page 29, between lines 3 and 4, insert a new Sec. 16.061 to read as

follows and renumber the following sections accordingly:

Sec. 16.061. RIGHTS NOT BARRED. A right of action of this state, a

county, an incorporated city or town, or a school district is not barred by any of the

following sections: 16.001-16.008, 16.021-16.033, 16.035-16.037, 16.051, or

16.062-16.071. (V.A.C.S. Art. 5517 (part)).

(3) On page 30, line 53, strike “16.069” and substitute “16.070”.

(4) Strike Chapter 18 (which begins on page 40) and substitute the following:

CHAPTER 18. EVIDENCE

SUBCHAPTER A. DOCUMENTARY EVIDENCE

Sec. 18.001. AFFIDAVIT CONCERNING COST AND NECESSITY OF

SERVICES

[Sections 18.002-18.030 reserved for expansion]

SUBCHAPTER B. PRESUMPTIONS

Sec. 18.031. FOREIGN INTEREST RATE

CHAPTER 18. EVIDENCE

SUBCHAPTER A. DOCUMENTARY EVIDENCE

Sec. 18.001. AFFIDAVIT CONCERNING COST AND NECESSITY OF

SERVICES. (a) This section applies to civil actions only, but not to an action on

a sworn account.

(b) Unless a controverting affidavit is filed as provided by this section, an

affidavit that the amount a person charged for a service was reasonable at the time
and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

(c) The affidavit must:
   (1) be taken before an officer with authority to administer oaths;
   (2) be made by:
       (A) the person who provided the service; or
       (B) the person in charge of records showing the service provided and charge made; and
   (3) include an itemized statement of the service and charge.

(d) The party offering the affidavit in evidence or the party's attorney must file the affidavit with the clerk of the court and serve a copy of the affidavit on each other party to the case at least 14 days before the day on which evidence is first presented at the trial of the case.

(e) A party intending to controvert a claim reflected by the affidavit must file a counteraffidavit with the clerk of the court and serve a copy of the counteraffidavit on each other party or the party's attorney of record not later than 10 days after the day he receives a copy of the affidavit or, with leave of the court, at any time before evidence is presented at trial.

(f) The counteraffidavit must give reasonable notice of the basis on which the party filing it intends at trial to controvert the claim reflected by the initial affidavit and must be taken before a person authorized to administer oaths. The counteraffidavit may be made on information and belief by the party filing it or by the party's attorney of record. (V.A.C.S. Art. 3737h.)

[Sections 18.002-18.030 reserved for expansion]

SUBCHAPTER B. PRESUMPTIONS

Sec. 18.031. FOREIGN INTEREST RATE. Unless the interest rate of another state or country is alleged and proved, the rate is presumed to be the same as that established by law of this state and interest at that rate may be recovered without allegation or proof. (V.A.C.S. Art. 3733.)

(5) Strike Chapter 22 (which begins on page 61) and substitute the following:

CHAPTER 22. WITNESSES

SUBCHAPTER A. WITNESSES

Sec. 22.001. WITNESS FEES. (a) A witness is entitled to:
   (1) one dollar for each day the witness attends court; and
   (2) six cents for each mile the witness travels in going to and returning from court.

   (b) After receiving the witness's affidavit, the court clerk shall issue a certificate stating the fees incurred under this section.

   (c) The party who summons the witness shall pay that witness's fees provided for by this section.

   (d) The witness fees must be taxed in the bill of costs as other costs. (V.A.C.S. Art. 3708.)

[Sections 22.002-22.010 reserved for expansion]

SUBCHAPTER B. PRIVILEGES

Sec. 22.011. PRIVILEGE FROM ARREST. (a) A witness is privileged from arrest while attending, going to, and returning from court.
(b) The privilege provided by this section extends for a period computed by allowing one day of travel for each 25 miles of the distance from the courthouse to the witness's residence.

c) This section does not apply to an arrest for a felony, treason, or breach of the peace. (V.A.C.S. Art. 3710.)

d) On page 164, strike lines 41-44 and substitute “3712a, 3717, 3733, 3735, 3737b, 3746, 3748, 3757, 3769a, 3769b”.

Committee Amendment No. 1 was adopted without objection.

HB 1186, as amended, was passed to engrossment.

**LEAVE OF ABSENCE GRANTED**

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

Emmett on motion of G. Thompson.

**HB 178 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment,

HB 178, A bill to be entitled An Act relating to the location of and acquisition of land and facilities by the Texas State Technical Institute.

The bill was read second time.

Representative Rangel offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 1**

Amend HB 178 by adding Subsection (e) to read as follows:

(e) The Hidalgo County campus of the Texas State Technical Institute shall be administered by the Texas State Technical Institute administration in Cameron County.

Committee Amendment No. 1 was adopted without objection.

HB 178, as amended, was passed to engrossment. (A. Smith and Toomey recorded voting no)

**HB 1191 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1191.

**CSHB 1191**

A BILL TO BE ENTITLED

AN ACT

relating to the revision, recodification, and enactment of substantive and procedural laws (including, but not limited to, administrative and enforcement provisions) concerning the manufacture, distribution, dispensing, possession, and delivery of marijuana, controlled substances, and drug paraphernalia; providing penalties; amending, recodifying, and reenacting Sections 1.02, 3.08, 4.01, 4.011, 4.012, 4.03, 4.031, 4.032, 4.04, 4.041, 4.042, 4.043, 4.05, 4.051, 4.052, 4.12, 5.03, 5.05, 5.06, 5.07, 5.08, and 5.081 of the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon’s Texas Civil Statutes); adding a new Section 4.053 to Subchapter 4 of the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon’s Texas Civil Statutes); amending and reenacting Section 3f(c), Article 42.12, Code of Criminal Procedure, 1965, as amended; amending and
reenacting Articles 44.04(b) and (c), Code of Criminal Procedure, 1965, as amended; repealing Sections 4.01(c) and (d), Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes); including a saving clause; providing for expiration of certain provisions of the Texas Controlled Substances Act if not reenacted on or before December 31, 1985; and declaring an emergency.

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

SECTION 1. Section 1.02, Texas Controlled Substances Act (Article 4476-14, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (30) to read as follows:

(30) "Believes" means, with respect to circumstances surrounding the conduct of an actor, that the actor has formed in his mind a conviction or assurance of the existence of such circumstances, even though such circumstances may not actually exist. Proof that an actor "believes" in the existence of certain circumstances must include evidence that the actor has received information giving him reasonable cause to believe such circumstances exist, and evidence that the actor then takes action or makes statements indicating his reliance upon such information. Proof that an actor "believes" in the existence of circumstances surrounding his conduct must be corroborated by a person other than the person informing the actor of such circumstances, or by evidence other than a statement of the person providing such information. An actor's belief in the existence of surrounding circumstances can be used to show his culpable mental state where expressly permitted in this Act.

SECTION 2. Section 3.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), as amended by Section 1, Chapter 570, Acts of the 67th Legislature, Regular Session, 1981, and Section 2, Chapter 777, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

Sec. 3.08. PRESCRIPTIONS. (a) No controlled substance in Schedule II may be dispensed or administered without the written prescription of a practitioner on a form that meets the requirements of and is filled in by the practitioner in accordance with Section 3.09 of this Act, except that:

(1) in emergency situations, as defined by rule of the director, Schedule II drugs may be dispensed or administered upon oral or telephonically communicated prescription of a practitioner, reduced promptly to writing by the pharmacy or (in the case of an emergency authorization to administer) the person administering the Schedule II drug, which shall include in the written record of the oral or telephonically communicated prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by the practitioner under Subsection (c) of Section 3.09 of this Act, and all information required to be provided by the dispensing pharmacist under Subsection (e) of Section 3.09 of this Act and shall send a copy of the written record to the Department of Public Safety within 30 days from the date the prescription is filled; and

(2) a prescription written for a patient who is admitted to a hospital at the time the prescription is written and filled is not required to be on a form that meets the requirements of Section 3.09 of this Act, and the provisions of Section 3.09 of this Act are not applicable to such prescriptions. No prescription for a Schedule II substance may be refilled.

(b) Except when dispensed directly to an ultimate user by a practitioner, other than a pharmacy, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, shall not be dispensed without a written, oral, or telephonically communicated prescription of a practitioner. A prescription for a Schedule III or IV drug shall not
be filled or refilled more than six months after the date thereof or be refilled more
than five times, unless renewed by the practitioner.

c. A telephonically communicated prescription of a practitioner under this
subchapter may be communicated only by the practitioner or by an agent of the
practitioner designated in writing as authorized to communicate prescriptions by
telephone. Such telephonically communicated prescriptions shall be reduced
promptly to writing by the pharmacy and filed and retained in conformity with this
subchapter. The written designation of an agent authorized to communicate
prescriptions shall be maintained in the usual place of business of the practitioner
and shall be available for inspection by investigators for the Texas State Board of
Medical Examiners, the State Board of Dental Examiners, the State Board of
Veterinary Medical Examiners, or the Department of Public Safety.

d. Upon request from a pharmacist, the practitioner shall furnish a copy of
such written designation of an agent authorized to communicate prescriptions on
behalf of such practitioner. Nothing herein shall be construed as to relieve such a
practitioner or his designated agent from the requirements of Section 40 of the
Texas Pharmacy Act, H.B. 1628, 67th Legislature, Regular Session, 1981; and such
practitioner shall be personally responsible for the actions for such designated agent
in communicating prescriptions to a pharmacist.

e. A controlled substance listed in Subdivision (1) or (2), Subsection (b),
Section 2.07, of this Act, may not be dispensed without the prescription of a
practitioner, except when dispensed directly to an ultimate user by a practitioner
other than a pharmacy, and a prescription for the substances may not be filled or
refilled more than six months after the date of the prescription or be refilled more
than five times, unless renewed by the practitioner. A controlled substance included
in Schedule V shall not be distributed or dispensed other than for a medical purpose.

f. No prescription for Schedule II narcotic drugs shall be filled after the end
of the second day following the day on which the prescription was issued.

g. A practitioner, as defined by Section 1.02(24)(A) of this Act, may not
prescribe, dispense, deliver, or administer a controlled substance or cause a
controlled substance to be administered under his direction and supervision except
for a valid medical purpose and in the course of professional practice.

h. No person may administer or dispense a controlled substance in Schedule
II except as otherwise authorized by this Act.

[Sec. 3.08—PRESCRIPTIONS. (a) No controlled substance in Schedule II
may be dispensed or administered without the written prescription of a practitioner
on a form that meets the requirements of and is filled in by the practitioner in
accordance with Section 3.09 of this Act, except that:

[(1) in emergency situations, as defined by rule of the director, Schedule II
drugs may be dispensed upon oral prescription of a practitioner, reduced promptly
to writing by the pharmacy, which shall include in its written record of the oral
prescription the name, address, and federal drug enforcement administration
number of the prescribing practitioner, all information required to be provided by
the practitioner under Subsection (c) of Section 3.09 of this Act; and all information
required to be provided by the dispensing pharmacist under Subsection (c) of
Section 3.09 of this Act and shall send a copy of the written record to the
Department of Public Safety within 30 days from the date the prescription is filled; and

[(2) a prescription written for a patient who is admitted to a hospital at the
time the prescription is written and filled is not required to be on a form that meets
the requirements of Section 3.09 of this Act, and the provisions of Section 3.09 of
this Act are not applicable to such prescriptions. No prescription for a Schedule II
substance may be refilled;]
(b) Except when dispensed directly to an ultimate user by a practitioner, other than a pharmacy, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, shall not be dispensed without a written or oral prescription of a practitioner. A prescription for a Schedule III or IV drug shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(c) A controlled substance listed in Subdivision (1) or (2) of Subsection (b); Section 2.07 of this Act, may not be dispensed without the prescription of a practitioner, except when dispensed directly to an ultimate user by a practitioner other than a pharmacy, and a prescription for the substances may not be filled or refilled more than six months after the date of the prescription or be refilled more than five times, unless renewed by the practitioner. A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose:

(d) No prescription for Schedule II narcotic drugs shall be filled after the end of the second day following the day on which the prescription was issued.

(e) A practitioner, as defined by Section 102(24)(A) of this Act, may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under his direction and supervision except for a valid medical purpose and in the course of professional practice.

(f) No person may administer or dispense a controlled substance in Schedule I, except as otherwise authorized by this Act:

Sec. 3.08. PRESCRIPTIONS. (a) No controlled substance in Schedule II may be dispensed without the written prescription of a practitioner, except when dispensed directly to an ultimate user by a practitioner, other than a pharmacy.

(b) In emergency situations, as defined by rule of the director, Schedule II drugs may be dispensed upon oral or telephonically communicated prescription of a practitioner, reduced promptly to writing by the pharmacy and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 3.06. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly to an ultimate user by a practitioner, other than a pharmacy, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, shall not be dispensed without a written, oral, or telephonically communicated prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(d) A telephonically communicated prescription of a practitioner under this subchapter may be communicated only by the practitioner or by an agent of the practitioner designated in writing as authorized to communicate prescriptions by telephone. Such telephonically communicated prescriptions shall be reduced promptly to writing by the pharmacy and filed and retained in conformity with this subchapter. The written designation of an agent authorized to communicate prescriptions shall be maintained in the usual place of business of the practitioner and shall be available for inspection by investigators for the Texas State Board of Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Department of Public Safety.

(e) Upon request from a pharmacist, the practitioner shall furnish a copy of such written designation of an agent authorized to communicate prescriptions on behalf of such practitioner. Nothing herein shall be construed as to relieve such a practitioner or his designated agent from the requirements of Section 40 of the Texas Pharmacy Act, H.B. 1628, 67th Legislature, Regular Session, 1981; and such practitioner shall be personally responsible for the actions for such designated agent in communicating prescriptions to a pharmacist.
A controlled substance listed in Subdivision (1) or (2), Subsection (b), Section 2.07 of this Act, may not be dispensed without the prescription of a practitioner, except when dispensed directly to an ultimate user by a practitioner other than a pharmacy, and a prescription for the substances may not be filled or refilled more than six months after the date of the prescription or be refilled more than five times, unless renewed by the practitioner. A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

No prescription for Schedule II narcotic drugs shall be filled after the second day the prescription was issued.

A practitioner, as defined by Section 4.02(24)(A) of this Act, may not prescribe, dispense, or administer a controlled substance or cause a controlled substance to be administered under his direction and supervision except for a valid medical purpose and in the course of professional practice.

SECTION 3. Section 4.01, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01. CLASSIFICATION OF OFFENSES AND PUNISHMENT. (a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A misdemeanors. An individual adjudged guilty of a Class A misdemeanor shall be punished by:

(A) a fine not to exceed $2,000;

(B) confinement in jail for a term not to exceed one year; or

(C) both such fine and imprisonment.

(2) Class B misdemeanors. An individual adjudged guilty of a Class B misdemeanor shall be punished by:

(A) a fine not to exceed $1,000;

(B) confinement in jail for a term not to exceed 180 days; or

(C) both such fine and imprisonment.

(3) Class C misdemeanors. An individual adjudged guilty of a Class C misdemeanor shall be punished by:

(A) a fine not to exceed $200.

(b) Those felonies for which a specific punishment is not provided are classified according to the relative seriousness of the offense into three categories:

(1) Felonies of the first degree. An individual adjudged guilty of a felony of the first degree shall be punished by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years. In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $20,000.

(2) Felonies of the second degree. An individual adjudged guilty of a felony of the second degree shall be punished by confinement in the Texas Department of Corrections for a term of not more than 20 years or less than 2 years. In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $10,000.

(3) Felonies of the third degree. An individual adjudged guilty of a felony of the third degree shall be punished by confinement in the Texas Department of Corrections for a term of not more than 10 years or less than 2 years. In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $5,000.

Sec. 4.01. CLASSIFICATION OF OFFENSES AND PUNISHMENT. (a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A misdemeanors. An individual adjudged guilty of a Class A misdemeanor shall be punished by:

(A) a fine not to exceed $2,000;
(b) confinement in jail for a term not to exceed one year; or
(c) both such fine and imprisonment;

(2) Class B misdemeanors. An individual adjudged guilty of a Class B misdemeanor shall be punished by:
   (A) a fine not to exceed $1,000;
   (B) confinement in jail for a term not to exceed 180 days; or
   (C) both such fine and imprisonment;

(3) Class C misdemeanors. An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed $200.

(b) Those felonies for which a specific punishment is not provided are classified according to the relative seriousness of the offense into three categories:

(1) Felonies of the first degree. An individual adjudged guilty of a felony of the first degree shall be punished by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years. In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $250,000.

(2) Felonies of the second degree. An individual adjudged guilty of a felony of the second degree shall be punished by confinement in the Texas Department of Corrections for a term of not more than 20 years or less than 2 years. In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $10,000.

(3) Felonies of the third degree. An individual adjudged guilty of a felony of the third degree shall be punished by confinement in the Texas Department of Corrections for a term of not more than 10 years or less than 2 years. In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $5,000.

SECTION 4. Section 4.011, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.011. PREPARATOR'Y OFFENSES. The provisions of Title 4, Penal Code, apply to Section 4.052 and offenses designated as aggravated offenses under Subchapter 4 of this Act, except that the punishment for a preparatory offense is the same as the punishment prescribed for the offense that was the object of the preparatory offense.

[Sec. 4.011. PREPARATOR'Y OFFENSES. The provisions of Title 4, Penal Code, apply to Section 4.052 and offenses designated as aggravated offenses under Subchapter 4 of this Act, except that the punishment for a preparatory offense is the same as the punishment prescribed for the offense that was the object of the preparatory offense.]

SECTION 5. Section 4.012, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.012. REPEAT OFFENDERS. (a) If it is shown on the trial of an offense listed under Subsection (b) of this section that the defendant has previously been convicted of a felony offense under this subchapter, on conviction the defendant shall be punished by the term of confinement and amount of fine imposed by this section.

(b) An offense under this section is punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than:

(1) 10 years, and a fine not to exceed $100,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(1), 4.031(d)(1), 4.032(d)(1), 4.03(d)(1), 4.041(d)(1), 4.042(d)(1), 4.043(d)(1), 4.05(d)(1), 4.051(d)(1), 4.052(b); or

(2) 15 years, and a fine not to exceed $250,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(2),
4.03(d)(2), 4.032(d)(2), 4.04(d)(2), 4.041(d)(2), 4.042(d)(2), 4.043(d)(2), 4.05(d)(2), or 4.051(d)(2); and

(3) 20 years, and a fine not to exceed $500,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(3), 4.05(d)(3), or 4.051(d)(3).

(c) A person who is subject to prosecution under both this section and Section 12.42, Penal Code, may be prosecuted under either section.

SEC. 4.012. REPEAT OFFENDERS. (a) If it is shown on the trial of an offense listed under Subsection (b) of this section that the defendant has previously been convicted of a felony offense under this subchapter, on conviction the defendant shall be punished by the term of confinement and amount of fine imposed by this section:

[(b) An offense under this section is punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than:

(1) 40 years, and a fine not to exceed $100,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(1); 4.031(d)(1); 4.032(d)(1); 4.04(d)(1); 4.041(d)(1); 4.042(d)(1); 4.043(d)(1); 4.05(d)(1); 4.051(d)(1); or 4.052(d)(1);

(2) 15 years, and a fine not to exceed $250,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(2); 4.031(d)(2); 4.032(d)(2); 4.04(d)(2); 4.041(d)(2); 4.042(d)(2); 4.043(d)(2); 4.05(d)(2); 4.051(d)(2); or 4.052(d)(2);

(3) 20 years, and a fine not to exceed $500,000, if the person is convicted of an offense for which the punishment is otherwise imposed under Section 4.03(d)(3); 4.05(d)(3), or 4.051(d)(3).]

[(c) A person who is subject to prosecution under both this section and Section 12.42, Penal Code, may be prosecuted under either section.]

SECTION 6. Section 4.03, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.03. UNLAWFUL MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCES IN PENALTY GROUP 1. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance listed in Penalty Group 1.

(b) An offense under Subsection (d) of this section is a felony of the first degree if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, less than 28 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, less than 200 grams; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight,
including any adulterants or dilutants, 200 grams or more but less than 400 grams;

(3) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $250,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

[Sec. 4.03. UNLAWFUL MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE IN PENALTY GROUP 1. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance listed in Penalty Group 1.

(b) An offense under Subsection (a) of this section is a felony of the first degree if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more but less than 200 grams.

(d) An offense under Subsection (c) of this section is:

(e) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $50,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 200 grams or more but less than 400 grams;

(f) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more;

(g) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $250,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more; and

(h) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $250,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.]
May 12, 1983

HOUSE JOURNAL

2045

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more but less than 400 grams; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

[Sec. 4.031. UNLAWFUL MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE IN PENALTY GROUP 2. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance listed in Penalty Group 2:

(b) An offense under Subsection (a) of this section is a felony of the second degree if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, less than 28 grams:

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more:

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more but less than 400 grams; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

SECTION 8. Section 4.032, Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 4.032. UNLAWFUL MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE IN PENALTY GROUP 3 OR 4. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance listed in Penalty Group 3 or 4:

(b) An offense under Subsection (a) of this section is a felony of the third degree if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, less than 200 grams:

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 200 grams or more:

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance manufactured, delivered,
or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 200 grams or more but less than 400 grams; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

(See. 4.032. UNLAWFUL MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE IN PENALTY GROUP 3 OR 4. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance listed in Penalty Group 3 or 4.

(b) An offense under Subsection (a) of this section is a felony of the second degree if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 28 grams or more, but less than 400 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more;

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance manufactured, delivered, or possessed with intent to manufacture or deliver is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

 Soc. 4.04. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 1. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 1 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice.

(b) An offense under Subsection (a) of this section is a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 28 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 28 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to
May 12, 1983

Sec. 4.041. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 2. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 2 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice.

(b) An offense under Subsection (a) of this section is a felony of the second degree if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 28 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 28 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 28 grams or more; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.
pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.

(b) An offense under Subsection (a) of this section is a felony of the third degree if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 28 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 28 grams or more:

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

[Sec. 4.042. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 3. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 3 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice.

(b) An offense under Subsection (a) of this section is a Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 200 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more; and

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

[Sec. 4.042. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 3. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 3 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice.

(b) An offense under Subsection (a) of this section is a Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 200 grams.}
A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

SECTION 12. Section 4.043, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.043. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 4. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 4 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his practice.

(b) An offense under Subsection (a) of this section is a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 200 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 400 grams or more.

[Sec. 4.043. UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCE IN PENALTY GROUP 4. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a controlled substance in Penalty Group 4 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his practice.

(b) An offense under Subsection (a) of this section is a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, less than 200 grams.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of the controlled substance possessed is, by aggregate weight, including any adulterants or dilutants, 200 grams or more.

(d) An offense under Subsection (c) of this section is:}
punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of the controlled substance possessed is by aggregate weight, including any adulterants or dilutants, 200 grams or more but less than 400 grams; and

punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of the controlled substance possessed is by aggregate weight, including any adulterants or dilutants, 400 grams or more.

SECTION 13. Section 4.05, Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 4.05. UNLAWFUL DELIVERY OF MARIHUANA. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally delivers marihuana.

(b) An offense under Subsection (a) of this section is:

(1) a Class B misdemeanor if the amount of marihuana delivered is one-fourth ounce or less and the person committing the offense does not receive remuneration for the marihuana;

(2) a Class A misdemeanor if the amount of marihuana delivered is one-fourth ounce or less and the person committing the offense receives remuneration for the marihuana;

(3) a felony of the third degree if the amount of marihuana delivered is four ounces or less but more than one-fourth ounce;

(4) a felony of the second degree if the amount of marihuana delivered is five pounds or less but more than four ounces; and

(5) a felony of the first degree if the amount of marihuana delivered is 50 pounds or less but more than 5 pounds.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of marihuana delivered is more than 50 pounds.

(d) An offense under Subsection (c) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana delivered is 200 pounds or less but more than 50 pounds;

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of marihuana delivered is 2,000 pounds or less but more than 200 pounds; and

(3) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $250,000, if the amount of the marihuana delivered is more than 2,000 pounds.

[Sec. 4.05. UNLAWFUL DELIVERY OF MARIHUANA. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally delivers marihuana.

(b) An offense under Subsection (a) of this section is:

(1) a Class B misdemeanor if the amount of marihuana delivered is one-fourth ounce or less and the person committing the offense does not receive remuneration for the marihuana;

(2) a Class A misdemeanor if the amount of marihuana delivered is one-fourth ounce or less and the person committing the offense receives remuneration for the marihuana;
(a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a usable quantity of marihuana.

(b) An offense under Subsection (a) of this section is:
(1) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less;
(2) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;
(3) a felony of the third degree if the amount of marihuana possessed is five pounds or less but more than four ounces; and
(4) a felony of the second degree if the amount of marihuana possessed is five pounds or less but more than five pounds.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this section and the amount of marihuana delivered is more than 50 pounds.

(d) An offense under Subsection (c) of this section is:
(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana delivered is 200 pounds or less but more than 50 pounds;
(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of marihuana delivered is 2,000 pounds or less but more than 200 pounds; and
(3) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed $250,000, if the amount of marihuana delivered is more than 2,000 pounds.

SECTION 14. Section 4.051, Texas Controlled Substances Act, (Article 4476-15, Vernon's Texas Civil Statutes), as amended by Section 8, Chapter 268, Acts of the 67th Legislature, Regular Session, 1981, and Section 1, Chapter 276, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

Sec. 4.051. UNLAWFUL POSSESSION OF MARIHUANA. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a usable quantity of marihuana.

(b) An offense under Subsection (a) of this section is:
(1) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less;
(2) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;
(3) a felony of the third degree if the amount of marihuana possessed is five pounds or less but more than four ounces; and
(4) a felony of the second degree if the amount of marihuana possessed is five pounds or less but more than five pounds.

(c) A person commits an aggravated offense if the person commits an offense under Subsection (a) of this Act and the amount of marihuana possessed is more than 50 pounds.

(d) An offense under Subsection (c) of this section is:
(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is 200 pounds or less but more than 50 pounds;
(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of marihuana possessed is 2,000 pounds or less but more than 200 pounds; and
(3) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed $250,000, if the amount of the marihuana possessed is more than 2,000 pounds.
(e) An offense for which the punishment is prescribed in Subsection (b) of this section may not be considered a crime of moral turpitude.

[Sec. 4.051. UNLAWFUL POSSESSION OF MARIHUANA. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally possesses a usable quantity of marihuana:

(b) An offense under Subsection (a) of this section is:

(1) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is 200 pounds or less but more than 50 pounds;

(2) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed $100,000, if the amount of marihuana possessed is 2,000 pounds or less but more than 200 pounds; and

(3) punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed $250,000, if the amount of the marihuana possessed is more than 2,000 pounds:

(d) An offense for which the punishment is prescribed in Subsection (b) of this section may not be considered a crime of moral turpitude.

[Sec. 4.051. DELIVERY OF CONTROLLED SUBSTANCE TO MINOR. (a) Except as authorized by this Act, a person commits an offense if he knowingly or intentionally delivers a controlled substance listed in Penalty Group 1, 2, or 3 or knowingly or intentionally delivers marihuana and the person delivers the marihuana or controlled substance to a person:

(1) who is 17 years of age or younger; or

(2) that the actor knows or believes intends to deliver the controlled substance or marihuana to a person 17 years of age or younger.

(b) It is an affirmative defense to prosecution under this section that the actor was less than 18 years of age when the offense was committed.

(e) It is an affirmative defense to prosecution under this section that the actor was less than 21 years of age at the time the offense was committed and delivered solely marihuana in an amount less than one-fourth ounce for which the actor received no remuneration.

(f) An offense under this section is a felony of the first degree.

SECTION 15. Section 4.052, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.052. ILLEGAL INVESTMENT. (a) A person commits an offense if the person knowingly or intentionally:

(1) expends funds he knows are derived from the commission of an offense under Section 4.032(c), 4.033(c), 4.032(c), 4.04(c), 4.042(c), 4.043(c), 4.05(c), or 4.051(c) of this Act; or
(2) finances or invests funds he knows or believes are intended to further the commission of an offense listed in Subdivision (a)(1) of this subsection.

(b) An offense under Subsection (a) of this section is punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine of not more than $1,000,000 or less than $500.

[Sec. 4.052. ILLEGAL INVESTMENT:

(a) A person commits an offense if the person knowingly or intentionally:

(1) receives or expends funds he knows or believes are derived from the commission of an offense under Section 4.03(c), 4.03(c), 4.04(c), 4.04(c), 4.04(c), 4.04(c), 4.04(c), 4.04(c), 4.05(c), or 4.05(c) of this Act; or

(2) finances or invests funds he knows or believes are intended to further the commission of an offense listed in Subdivision (a)(1) of this subsection;

(b) An offense under Subsection (a) of this section is punishable by confinement in the Texas Department of Corrections for life or for a term of not more than 99 years or less than 5 years, and a fine of not more than $1,000,000 or less than $500.

SECTION 16. Subchapter 4, Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), is amended by adding Section 4.053 to read as follows:

Sec. 4.053. DELIVERY OF CONTROLLED SUBSTANCE TO MINOR.

(a) Except as authorized by this Act, a person commits an aggravated offense if the person knowingly or intentionally delivers a controlled substance listed in Penalty Group 1, 2, or 3 or knowingly or intentionally delivers marihuana and the person delivers the marihuana or controlled substance to a person:

(1) who is 17 years of age or younger; or

(2) that the actor knows or believes intends to deliver the controlled substance or marihuana to a person 17 years of age or younger.

(b) It is an affirmative defense to prosecution under this section that the actor was less than 18 years of age when the offense was committed.

(c) It is an affirmative defense to prosecution under this section that the actor was less than 21 years of age at the time the offense was committed and delivered solely marihuana in an amount less than one-fourth ounce for which the actor received no remuneration.

(d) An offense under this section is a felony of the first degree.

SECTION 17. Section 4.12(a), Texas Controlled Substances Act, (Article 4476-15, Vernon’s Texas Civil Statutes), as amended by Section 9, Chapter 268, Acts of the 67th Legislature, Regular Session, 1981, and Section 2, Chapter 276, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

(a) If any person who has not previously been convicted of an offense under this Act, or, subsequent to the effective date of this Act, under any statute of the United States or of any state relating to a substance that is defined by this Act as a controlled substance, is charged with or found guilty of a violation of this subchapter, except an aggravated offense or an offense under Section 4.052 or 4.053, after trial or on a plea of guilty, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place him on probation on such reasonable conditions as it may require and for such period as the court may prescribe, except that the probationary period may not exceed two years.

(a) If any person who has not previously been convicted of an offense under this Act, or, subsequent to the effective date of this Act, under any statute of the United States or of any state relating to a substance that is defined by this Act as a controlled substance, is charged with or found guilty of a violation of this subchapter, except an aggravated offense or an offense under Section 4.052 of this
Act, after trial or on a plea of guilty, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place him on probation on such reasonable conditions as it may require and for such period as the court may prescribe, except that the probationary period may not exceed two years.

[(a) If any person who has not previously been convicted of an offense under this Act, or, subsequent to the effective date of this Act, under any statute of the United States or of any state relating to a substance that is defined by this Act as a controlled substance, is charged or found guilty of a violation of this subchapter, other than a violation of Section 4.051 of this subchapter, after trial or on a plea of guilty, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place him on probation on such reasonable conditions as it may require and for such period as the court may prescribe, except that the probationary period may not exceed two years.]

SECTION 18. Section 5.03(a). Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), as amended by Section 10, Chapter 268, Acts of the 67th Legislature, Regular Session, 1981; Section 3, Chapter 277, Acts of the 67th Legislature, Regular Session, 1981; and Section 5, Chapter 570, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

(a) The following are subject to forfeiture as authorized by this subchapter:

(1) all controlled substances that are or have been manufactured, distributed, dispensed, delivered, acquired, obtained, or possessed in violation of this Act;
(2) all raw materials, products, and equipment of any kind that are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this Act;
(3) all property that is used, or intended for use, as a container for property described in paragraph (1) or (2) of this subsection;
(4) all books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used, or intended for use, in violation of this Act;
(5) any conveyance, including aircraft, vehicles, vessels, trailers, and railroad cars, that is used or intended for use to transport or in any manner facilitate the transportation, sale, receipt, possession, concealment, or delivery of any property described in paragraph (1), (2), or (3) of this subsection, provided that no conveyance used by any other person shall be forfeited under this subchapter unless the owner or other person in charge of the conveyance is a consenting party or privy to an aggravated offense under this Act or an offense under Section 4.052 of this Act;
(6) all money, certificates of deposit, negotiable instruments, securities, stocks, bonds, businesses or business investments, contractual rights, real estate, personal property, or other things of value derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act;
(7) all drug paraphernalia; and
(8) triplicate prescription forms required by this Act to be returned to the Department of Public Safety.

Sec. 5.03. FORFEITURES. (a) The following are subject to forfeiture as authorized by this subchapter:

(1) all controlled substances that are or have been manufactured, distributed, dispensed, delivered, acquired, obtained, or possessed in violation of this Act;
(2) all raw materials, products, and equipment of any kind that are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this Act;
(3) all property that is used, or intended for use, as a container for property described in paragraph (1) or (2) of this subsection;
(4) all books, records, and research products and materials, including formulas, microfilms, tapes, and data that are used or intended for use, in violation of this Act;

(5) any conveyance, including aircraft, vehicles, vessels, trailers, and railroad cars, that is used or intended for use to transport or in any manner facilitate the transportation, sale, receipt, possession, concealment, or delivery of any property described in paragraph (1), (2), or (3) of this subsection, provided that no conveyance used by any person shall be forfeited under this subchapter unless the owner or other person in charge of the conveyance is a consenting party or privy to an aggravated offense under this Act or an offense under Section 4.052 of this Act;

(6) all money, certificates of deposit, negotiable instruments, securities, stocks, bonds, businesses or business investments, contractual rights, real estate, personal property, or other things of value derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act; and

(7) all drug paraphernalia;

(9) triplicate prescription forms required by this Act to be returned to the Department of Public Safety.

SECTION 19. Sections 5.03(b) and (c), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) No property shall be forfeited under this subchapter by reason of any act established by the owner thereof to have been committed without his knowledge or consent.

(c) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act which caused the property to be subject to forfeiture.

SECTION 20. Section 5.05, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.05. NOTIFICATION OF FORFEITURE PROCEEDINGS. (a) When any property, other than a controlled substance or raw material, is seized, proceedings under this section shall be instituted within 30 days after the seizure and not thereafter.

(b) The seizing officer shall immediately cause to be filed in the name of the State of Texas with the clerk of the district court in the county in which the seizure is made, or if the property is a conveyance, in any county in which the conveyance was used or intended for use to transport or in any manner facilitate the transportation, sale, receipt, possession, or concealment of any property described in Paragraph (1), (2) or (3) of Section 5.03(a), a notice of the seizure and intended forfeiture. Certified copies of the notice shall be served upon the following persons as provided for the serving of process by citation in civil cases:

(1) the owner of the property, if address is known;

(2) any secured party who has registered his lien or filed a financing statement as provided by law; and

(3) any other bona fide lienholder or secured party or other person holding an interest in the property in the nature of a security interest of whom the Texas Department of Public Safety has knowledge.

(c) If the property is a motor vehicle susceptible of registration under the motor vehicle registration laws of this state and if there is any reasonable cause to
believe that the vehicle has been registered under the laws of this state, the officer in charge of initiating the forfeiture proceedings shall make inquiry of the State Highway Department as to what the records of the State Highway Department show as to who is the record owner of the vehicle and who, if anyone, holds any lien or security interest which affects the vehicle.

(d) If the property is a motor vehicle and is not registered in Texas, then the officer in charge of initiating the proceeding shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed, and if the vehicle is licensed in a state which has in effect a certificate of title law, he shall make inquiry of the appropriate agency of that state as to what the records of the agency show as to who is the record owner of the vehicle and who, if anyone, holds any lien, security interest, or other instrument in the nature of a security device which affects the vehicle.

(e) If the property is of a nature that a financing statement is required by the laws of this state to be filed to perfect a security interest affecting the property and if there is any reasonable cause to believe that a financing statement covering the security interest has been filed under the laws of this state, the officer in charge of initiating the proceeding shall make inquiry of the appropriate official designated in Chapter 9, Business & Commerce Code, as to what the records show as to who is the record owner of the property and who, if anyone, has filed a financing statement affecting the property.

(f) If the property is an aircraft or part thereof and if there is any reasonable cause to believe that an instrument in the nature of a security device affects the property, then the officer in charge of initiating the proceeding shall make inquiry of the administrator of the Federal Aviation Administration as to what the records of the administrator show as to who is the record owner of the property and who, if anyone, holds an instrument in the nature of a security device which affects the property.

(g) In the case of all other property subject to forfeiture, if there is any reasonable cause to believe that an instrument in the nature of a security device affects the property, then the officer in charge of initiating the proceeding shall make a good faith inquiry to identify the holder of any such instrument.

(h) In the event the answer to an inquiry states that the record owner of the property is any person other than the person who was in possession of it when it was seized, or states that any person holds any lien, security interest, or other interest in the nature of a security interest which affects the property, the officer in charge of initiating the proceeding shall cause any record owner and also any lienholder, secured party, or other person who holds an interest in the property in the nature of a security interest which affects the property to be named a party to the proceeding and to be served with citation of the pendency thereof as provided by the Texas Rules of Civil Procedure.

(i) If a person was in possession of the property subject to forfeiture at the time that it was seized, he shall also be made a party to the proceeding.

(j) If no person was in possession of the property subject to forfeiture at the time that it was seized and if the owner of the property is unknown, the officer in charge of initiating the proceeding shall file with the clerk of the court in which the proceeding is pending an affidavit to such effect, whereupon the clerk of the court shall issue a citation for service by publication addressed to "the Unknown Owner of __________", filing in the blank space with a reasonably detailed description of the property subject to forfeiture. The citation shall contain the other requisites prescribed in Rules 114 and 115 and shall be served as provided by Rule 116 of the Texas Rules of Civil Procedure.

(k) No proceedings instituted pursuant to the provisions of this subchapter shall proceed to hearing unless the judge conducting the hearing is satisfied that this
section has been complied with, and the officer initiating the proceeding shall introduce into evidence at the hearing any answer received from an inquiry required by Subsections (c) through (g) of this section.

Sec. 5.05. NOTIFICATION OF FORFEITURE PROCEEDINGS. (a)
When any property, other than a controlled substance or raw material, is seized, proceedings under this section shall be instituted within 30 days after the seizure and not thereafter:

(b) The seizing officer shall immediately cause to be filed in the name of the State of Texas with the clerk of the district court of the county in which the seizure is made, or if the property is a conveyance, in any county in which the conveyance was used or intended for use to transport or in any manner facilitate the transportation, sale, receipt, possession, or concealment of any property described in Paragraph (1), (2) or (3) of Section 5.03(a); a notice of the seizure and intented forfeiture. Certified copies of the notice shall be served upon the following persons as provided for the serving of process by citation in civil cases:

(1) the owner of the property, if address is known;
(2) any secured party who has registered his lien or filed a financing statement as provided by law; and
(3) any other bona fide lienholder or secured party or other person holding an interest in the property in the nature of a security interest of whom the Texas Department of Public Safety has knowledge.

(c) If the property is a motor vehicle susceptible of registration under the motor vehicle registration laws of this state and if there is any reasonable cause to believe that the vehicle has been registered under the laws of this state, the officer in charge of initiating the forfeiture proceedings shall make inquiry of the State Highway Department as to what the records of the State Highway Department show as to who is the record owner of the vehicle and who, if anyone, holds any lien or security interest which affects the vehicle.

(d) If the property is a motor vehicle and is not registered in Texas; then the officer in charge of initiating the proceeding shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed; and if the vehicle is licensed in a state which has in effect a certificate of title law, he shall make inquiry of the appropriate agency of that state as to what the records of the agency show as to who is the record owner of the vehicle and who, if anyone, holds any lien or security interest, or other instrument in the nature of a security device which affects the vehicle.

(e) If the property is of a nature that a financing statement is required by the laws of this state to be filed to perfect a security interest affecting the property and if there is any reasonable cause to believe that a financing statement covering the security interest has been filed under the laws of this state, the officer in charge of initiating the proceeding shall make inquiry of the appropriate official designated in Chapter 9, Business & Commerce Code, as to what the records show as to who is the record owner of the property and who, if anyone, has filed a financing statement affecting the property.

(f) If the property is an aircraft or part thereof and if there is any reasonable cause to believe that an instrument in the nature of a security device affects the property, then the officer in charge of initiating the proceedings shall make inquiry of the administrator of the Federal Aviation Administration as to what the records of the administrator show as to who is the record owner of the property and who, if anyone, holds an instrument in the nature of a security device which affects the property.

(g) In the case of all other property subject to forfeiture, if there is any reasonable cause to believe that an instrument in the nature of a security device
affects the property, then the officer in charge of initiating the proceeding shall make a good faith inquiry to identify the holder of any such instrument.

(b) In the event the answer to an inquiry states that the record owner of the property is any person other than the person who was in possession of it when it was seized, or states that any person holds any lien, security interest, or other interest in the nature of a security interest which affects the property, the officer in charge of initiating the proceeding shall cause any record owner and also any lienholder, secured party, or other person who holds an interest in the property in the nature of a security interest which affects the property to be named a party to the proceeding and to be served with citation of the pendency thereof as provided by the Texas Rules of Civil Procedure:

(i) If a person was in possession of the property subject to forfeiture at the time that it was seized, he shall also be made a party to the proceeding;

(ii) If no person was in possession of the property subject to forfeiture at the time that it was seized and if the owner of the property is unknown, the officer in charge of initiating the proceeding shall file with the clerk of the court in which the proceeding is pending an affidavit to such effect, whereupon the clerk of the court shall issue a citation for service by publication addressed to "The Unknown Owner of..." filling in the blank space with a reasonably detailed description of the property subject to forfeiture. The citation shall contain the other requisites prescribed in Rules 144 and 145 and shall be served as provided by Rule 116 of the Texas Rules of Civil Procedure.

(k) No proceedings instituted pursuant to the provisions of this subchapter shall proceed to hearing unless the judge conducting the hearing is satisfied that this section has been complied with, and the officer initiating the proceeding shall introduce into evidence at the hearing any answer received from an inquiry required by Subsections (c) through (g) of this section.

SECTION 21. Section 5.06, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.06. REPLEVY OF SEIZED PROPERTY. Any property, other than drug paraphernalia, a controlled substance or raw material, or money, negotiable instrument, or security furnished or intended to be furnished by a person in exchange for a controlled substance in violation of this Act, or used or intended to be used to facilitate a violation of this Act that is seized under this subchapter may be replevied by the owner, lienholder, secured party, or other party holding an interest in the nature of security interest affecting the property, upon execution by him of a good and valid bond with sufficient surety in a sum double the appraised value of the property replevied, which bond shall be approved by the seizing officer and shall be conditioned upon return of the property to the custody of the officer on the day of hearing of the forfeiture proceeding and abide the judgment of the court.

SECTION 22. Section 5.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:
Sec. 5.07. FORFEITURE HEARING. (a) An owner of property, other than a controlled substance or raw material, that has been seized shall file a verified answer within 20 days of the mailing or publication of notice of seizure. If no answer is filed, the court shall hear evidence that the property is subject to forfeiture and may upon motion forfeit the property to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers. If an answer is filed, a time for hearing on forfeiture shall be set within 30 days of filing the answer and notice of the hearing shall be sent to all parties.

(b) If the owner of the property has filed a verified answer denying that the property is subject to forfeiture then the burden is on the state to prove by a preponderance of the evidence that the property is subject to forfeiture. However, if no answer has been filed by the owner of the property, the notice of seizure may be introduced into evidence and is prima facie evidence that the property is subject to forfeiture.

c) At the hearing any claimant of any right, title, or interest in the property may prove his lien, security interest, or other interest in the nature of a security interest, to be bona fide and created without knowledge or consent that the property was to be used so as to cause the property to be subject to forfeiture.

d) If it is found that the property is subject to forfeiture, then the judge shall upon motion forfeit the property to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers. However, for property other than a controlled substance, raw material, or drug paraphernalia, if proof at the hearing discloses that the interest of any bona fide lienholder, secured party, or other person holding an interest in the property in the nature of a security interest is greater than or equal to the present value of the property, the court shall order the property released to him. If such interest is less than the present value of the property and if the proof shows that the property is subject to forfeiture, the court shall order the property forfeited to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers.

e) Upon petition of the seizing officer, filed in the name of the State of Texas with the clerk of the district court of the county in which the seizure of any controlled substance or raw material is made, the district court having jurisdiction may order the controlled substance or raw material summarily forfeited except when lawful possession and title can be ascertained. If a person is found to have had lawful possession and title prior to seizure, the court shall order the controlled substance or raw material returned to the owner, if the owner so desires.
(d) If it is found that the property is subject to forfeiture, then the judge shall upon motion forfeit the property to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers. However, if proof at the hearing discloses that the interest of any bona fide lienholder, secured party, or other person holding an interest in the property in the nature of a security interest is greater than or equal to the present value of the property, the court shall order the property released to him. If such interest is less than the present value of the property and if the proof shows that the property is subject to forfeiture, the court shall order the property forfeited to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers.

(e) Upon petition of the seizing officer, filed in the name of the State of Texas with the clerk of the district court of the county in which the seizure of any controlled substance or raw material is made, the district court having jurisdiction may order the controlled substance or raw material summarily forfeited except when lawful possession and title can be ascertained. If a person is found to have had lawful possession and title prior to seizure, the court shall order the controlled substance or raw material returned to the owner; if the owner so desires.

SECTION 23. Section 5.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.08. DISPOSITION OF FORFEITED PROPERTY. (a) Regarding all controlled substances, raw materials, and drug paraphernalia which have been forfeited, the district court shall by its order direct a law enforcement agency to:

(1) retain the property for its official purposes;
(2) deliver the property to a government agency or department for official purposes;
(3) deliver the property to a person authorized by the court to receive it; or
(4) destroy the property that is not otherwise disposed in the manner prescribed by Section 5.081 of this Act.

(b) All other property that has been forfeited, except the money derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act, and except as provided below, shall be sold at a public auction under the direction of the county sheriff after notice of public auction as provided by law for other sheriff's sales. The proceeds of the sale shall be delivered to the district clerk and shall be disposed of as follows:

(1) to any bona fide lienholder, secured party, or other party holding an interest in the property in the nature of a security interest, to the extent of his interest; and
(2) the balance, if any, after deduction of all storage and court costs, shall be forwarded to the state comptroller and deposited with and used as general funds of the state.

(c) The state or an agency of the state or a political subdivision of the state authorized by law to employ peace officers may maintain, repair, use, and operate for official purposes all property that has been forfeited to it if it is free from any interest of a bona fide lienholder, secured party, or other party who holds an interest in the property in the nature of a security interest. The department or agency receiving the forfeited vehicle may purchase the interest of a bona fide lienholder, secured party, or other party who holds an interest so that the property can be released for use by the department or agency receiving the forfeited vehicle. The department or agency receiving the forfeited vehicle may maintain, repair, use, and operate the property with money appropriated to the department or agency for current operations. If the property is a motor vehicle susceptible of registration under the motor vehicle registration laws of this state, the department or agency receiving the forfeited vehicle is deemed to be the purchaser and the certificate of title shall be issued to it as required by Subsection (e) of this section.
(d) Storage charges on any property accrued while the property is stored at the request of a seizing officer of the department or agency receiving the forfeited vehicle pending the outcome of the forfeiture proceedings shall be paid by the department or agency out of its appropriations if such property after final hearing is not forfeited to the department or agency.

(c) The State Highway Department shall issue a certificate of title to any person who purchases property under the provisions of this section when a certificate of title is required under the laws of this state.

(f) All money, securities, negotiable instruments, stocks, or bonds forfeited to an agency of the state or an agency or office of a political subdivision of the state authorized by law to employ peace officers shall be deposited in a special fund to be administered by the agency or office to which they are forfeited. Expenditures from this fund shall be used solely for the investigation of any alleged violations of the criminal laws of this state. Nothing in this subsection shall be construed to decrease the total salaries, expenses, and allowances which an agency or office is receiving from other sources at or from the time this subsection takes effect.

\[ \text{Sec. 5.08. DISPOSITION OF FORFEITED PROPERTY.} \]

(a) Regarding all controlled substances and raw materials which have been forfeited, the district court shall by its order direct a law enforcement agency to:

1. retain the property for its official purposes;

2. deliver the property to a government agency or department for official purposes;

3. deliver the property to a person authorized by the court to receive it; or

4. destroy the property that is not otherwise disposed in the manner prescribed by Section 5.081 of this Act.

(b) All other property that has been forfeited, except the money derived from the sale, manufacture, distribution, dispensation, delivery, or other commercial undertaking violative of this Act, and except as provided below, shall be sold at a public auction under the direction of the county sheriff after notice of public auction as provided by law for other sheriff's sales. The proceeds of the sale shall be delivered to the district clerk and shall be disposed of as follows:

1. to any bona fide lienholder, secured party, or other party holding an interest in the property in the nature of a security interest, to the extent of his interest; and

2. the balance, if any, after deduction of all storage and court costs, shall be forwarded to the state comptroller and deposited with and used as general funds of the state.

(e) The State or an agency of the state or a political subdivision of the state authorized by law to employ peace officers may maintain, repair, use, and operate for official purposes all property that has been forfeited to it if it is free from any interest of a bona fide lienholder, secured party, or other party who holds an interest in the property in the nature of a security interest. The department or agency receiving the forfeited vehicle may purchase the interest of a bona fide lienholder, secured party, or other party who holds an interest so that the property can be released for use by the department or agency receiving the forfeited vehicle. The department or agency receiving the forfeited vehicle may maintain, repair, use, and operate the property with money appropriated to the department or agency for current operations. If the property is a motor vehicle susceptible of registration under the motor vehicle registration laws of this state, the department or agency receiving the forfeited vehicle is deemed to be the purchaser and the certificate of title shall be issued to it as required by Subsection (e) of this section.

(d) Storage charges on any property accrued while the property is stored at the request of a seizing officer of the department or agency receiving the forfeited vehicle pending the outcome of the forfeiture proceedings shall be paid by the
department or agency out of its appropriations if such property after final hearing
is not forfeited to the department or agency.

(c) The State Highway Department shall issue a certificate of title to any
person who purchases property under the provisions of this section when a
certificate of title is required under the laws of this state.

(ff) All money, securities, negotiable instruments, stocks, or bonds forfeited
to an agency of the state or an agency or office of a political subdivision of the state
authorized by law to employ peace officers shall be deposited in a special fund to
be administered by the agency or office to which they are forfeited. Expenditures
from this fund shall be used solely for the investigation of any alleged violations of
the criminal laws of this state. Nothing in this subsection shall be construed to
decrease the total salaries, expenses, and allowances which an agency or office is
receiving from other sources at or from the time this subsection takes effect.

SECTION 24. Section 5.081, Texas Controlled Substances Act (Article
4476-15, Vernon’s Texas Civil Statutes), is amended to read as follows:
Sec. 5.081. FORFEITURE AND DESTRUCTION OF EXCESS
QUANTITIES. (a) If notice is given in accordance with Subsection (b) of this
section, a peace officer may file a petition before a magistrate who has jurisdiction
over the subject matter asking that any controlled substance or mixture containing
a controlled substance that has been seized be forfeited to the state and destroyed.
(b) At least five days before a peace officer files a petition under
Subsection (a) of this section, the sheriff of the county in which the seizure was made shall serve
notice in accordance with the Texas Rules of Civil
Procedure
of the peace officer’s
intention to file the petition to each person arrested and charged with an offense
under this Act related to the property which is the subject of the petition, and to
each person who claims an interest in the seized property at the time notice is given.
A copy of the petition must accompany each notice.
(c) Each petition filed under this section must identify the controlled
substance or mixture containing the controlled substance, establish its location, and
include an affidavit stating that:

1. at least five random and representative samples have been taken from the
total amount of controlled substance or mixture containing the controlled
substance, and a sufficient quantity has been preserved to provide for discovery by
parties entitled to discovery;
2. photographs have been taken which reasonably demonstrate the total
amount of the controlled substance or mixture containing the controlled substance;
3. the gross weight of the controlled substance or mixture containing the
controlled substance has been determined, either by actually weighing the substance
or by estimating its weight after making dimensional measurements of the total
amount seized, and
4. after considering the difficulty and security risk of transporting and storing
the substance and the nature of available storage facilities, the peace officer that has
custody of the controlled substance or mixture containing the controlled substance
has determined that it is not reasonably practical to preserve the substance in place,
or to remove it to another location.
(d) The magistrate shall provide an interested person an opportunity to object
to the proposed destruction.
(e) If the objection of an interested person is not sustained and the magistrate
finds that the requirements of Subsections (b) and (c) of this section have been met,
the magistrate shall issue an order forfeiting the controlled substance or mixture
containing the controlled substance to the state and ordering the peace officer that
has custody of the controlled substance or mixture containing the controlled
substance to destroy it.
(f) On destruction of the controlled substance or mixture containing the controlled substance, the peace officer accomplishing the destruction shall sign a sworn statement before the magistrate attesting to the fact that the property was destroyed, the place of destruction, and the type and quantity of controlled substance or mixture containing the controlled substance destroyed.

(g) Representative samples, photographs, and records made pursuant to this section are admissible in civil or criminal proceedings in the same manner and to the same extent as if the total quantity of the suspected controlled substance was offered in evidence, regardless of whether or not the remainder of the substance has been destroyed. No inference or presumption of spoliation applies to substances destroyed pursuant to this section.

See Sec. 5.081—FORFEITURE AND DESTRUCTION OF EXCESS QUANTITIES. (a) If notice is given in accordance with Subsection (b) of this section, a peace officer may file a petition before a magistrate who has jurisdiction over the subject matter asking that the controlled substance or the mixture containing the controlled substance that has been seized be forfeited to the state and destroyed:

(b) At least five days before a peace officer files a petition under Subsection (a) of this section, the sheriff of the county in which the seizure was made shall serve notice in accordance with the Texas Rules of Civil Procedure of the peace officer's intention to file the petition to each person arrested and charged with an offense under this Act related to the property which is the subject of the petition, and to each person who claims an interest in the seized property at the time notice is given.

A copy of the petition must accompany each notice:

(c) Each petition filed under this section must identify the controlled substance or mixture containing the controlled substance; establish its location; and include an affidavit stating that:

(1) at least five random and representative samples have been taken from the total amount of controlled substance or mixture containing the controlled substance; and a sufficient quantity has been preserved to provide for discovery by parties entitled to discovery;

(2) photographs have been taken which reasonably demonstrate the total amount of the controlled substance or mixture containing the controlled substance;

(3) the gross weight of the controlled substance or mixture containing the controlled substance has been determined, either by actually weighing the substance or by estimating its weight after making dimensional measurements of the total amount seized; and

(4) after considering the difficulty and security risk of transporting and storing the substance and the nature of available storage facilities, the peace officer that has custody of the controlled substance or mixture containing the controlled substance has determined that it is not reasonably practical to preserve the substance in place, or to remove it to another location.

(d) The magistrate shall provide an interested person an opportunity to object to the proposed destruction:

(e) If the objection of an interested person is not sustained and the magistrate finds that the requirements of Subsections (b) and (c) of this section have been met, the magistrate shall issue an order forfeiting the controlled substance or mixture containing the controlled substance to the state and ordering the peace officer that has custody of the controlled substance or mixture containing the controlled substance to destroy it:

(f) On destruction of the controlled substance or mixture containing the controlled substance, the peace officer accomplishing the destruction shall sign a sworn statement before the magistrate attesting to the fact that the property was
SECTION 25. Section 3(c), Article 42.12, Code of Criminal Procedure, 1965, as amended by Section 16, Chapter 268, Acts of the 67th Legislature, Regular Session, 1982, and Section 3, Chapter 276, Acts of the 67th Legislature, Regular Session, 1982, is amended to read as follows:

(c) The provisions of Section 3(d) of this Article do not apply to a defendant charged with or adjudged guilty of an offense under Section 4.052 or 4.053 Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or an offense listed in Section 4.012(b) of that Act.

SECTION 26. Articles 44.04(b) and (c), Code of Criminal Procedure, 1965, are amended to read as follows:

(b) The defendant may not be released on bail pending the appeal from any felony conviction where the punishment exceeds 15 years confinement or where the defendant has been convicted of an offense listed under Section 4.012(b), Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), but shall immediately be placed in custody and the bail discharged.

(c) Pending the appeal from any felony conviction other than a conviction described in Subsection (b) of this section (where the punishment does not exceed 15 years confinement), the trial court may deny bail and commit the defendant to custody if there exists good cause to believe that the defendant would not appear when his conviction became final or is likely to commit another offense while on bail, permit the defendant to remain at large on the existing bail, or, if not then on bail, admit him to reasonable bail until his conviction becomes final. The court may impose reasonable conditions on bail pending the finality of his conviction. On a finding by the court on a preponderance of the evidence of a violation of a condition, the court may revoke the bail.
by the court on a preponderance of the evidence of a violation of a condition, the court may revoke the bail.

SECTION 27. Sections 4.01(c) and (d), Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), are repealed.

SECTION 28. (a) The change in law made by this Act 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 only if any element of the offense occurs before the effective 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 this purpose.

SECTION 29. Unless reenacted on or before December 31, 1985, the amendments to Section 5.03(a)(8), and the portion of Section 3.08(a) referring to Section 3.09, of the Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes) made by this Act shall become null and void and of no further force or effect as of 12:01 a.m. on January 1, 1986.

SECTION 30. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 1191 was read second time.

Representative Danburg offered the following amendment to CSHB 1191:

Amend Section 27 of CSHB 1191 on page 67, line 21, as follows:
Strike "and" and insert the words "Section 4.011," before the word "Texas".

Representative C. Evans moved to table the Danburg amendment.

The motion to table prevailed.

CSHB 1191 was passed to engrossment.

STATEMENT BY REPRESENTATIVE A. SMITH

Since the two hour limit on entering my vote expired during the lunch recess, I am instructing the journal to reflect my "no" vote on HB 896, HB 158, and HB 1518.

A. Smith

HB 1085 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 1085, A bill to be entitled An Act relating to the creation of the office of budget officer in certain counties.

The bill was read second time and was passed to engrossment. (T. Smith recorded voting no)

HB 2427 ON SECOND READING

The chair laid before the house, as postponed business, on its second reading and passage to engrossment,

HB 2427, A bill to be entitled An Act relating to creation, administration, powers, duties, operations, and financing of the Montgomery County Flood Control District, providing a civil penalty.
HB 2427 was on the calendar earlier today and was postponed until 2 p.m. today.

The bill was read second time.

Representative Tow offered the following amendment to the bill:

Amend HB 2427 by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:
(1) "District" means the Montgomery County Flood Control District.
(2) "Board" means the board of directors of the district.
(3) "Director" means a member of the board of the district.
(4) "Plan" means the district flood control and drainage plan.
(5) "Local government" means a city or town, a county, a district or authority created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, or any other political subdivision of this state.
(6) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal entity.
(7) "Department" means the Texas Department of Water Resources.
(8) "Authority" means the San Jacinto River Authority.
(9) "Authority board" means the governing board of the San Jacinto River Authority.
(10) "Flood control fund" means the Montgomery County Flood Control District flood control fund.

SECTION 2. CREATION OF DISTRICTS AUTHORIZED. On approval at the election held under Section 4 of this Act, the Montgomery County Flood Control District is created as a conservation and reclamation district pursuant to Article XVI, Section 59, of the Texas Constitution.

SECTION 3. BOUNDARIES OF DISTRICT. The district has boundaries coextensive with the boundaries of Montgomery County.

SECTION 4. CONFIRMATION AND TAX ELECTION. (a) The authority board shall call an election to be held within two years after the effective date of this Act within the boundaries of the proposed district and may call subsequent elections to determine if the proposed district will be created and if a tax will be imposed as provided by Section 60 of this Act.

(b) Notice of the confirmation and tax election shall state the day and places for holding the election and the proposition to be voted on. The notice of the election also shall contain a description of the nature and rate of the tax authorized by Section 60 of this Act. The authority board shall publish the notice once in a newspaper of general circulation in the proposed district. The notice must be published at least 30 days before the date set for the election.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "The creation of the Montgomery County Flood Control District and the adoption within the district of a one percent sales and use tax to carry out the purpose of the district."

(d) Immediately after the confirmation and tax election, the presiding judge of each polling place shall make returns of the results to the authority board, and the authority board shall canvass the returns and declare the result.

(e) If a majority of the votes cast at the election favor the creation of the district and the adoption of the sales and use tax, the authority board shall declare the district created and the sales and use tax adopted and shall enter the results in its minutes. If a majority of the votes cast at the election are against the creation of the district and the adoption of the sales and use tax, the authority board shall
May 12, 1983 HOUSE JOURNAL 2067

declare that the district was defeated and that the sales and use tax was not adopted and shall enter the results in its minutes. The authority board shall also file a copy of the election results with the department.

(f) If a majority of the voters at the election approve the creation of the district, the authority board shall appoint two persons to serve as directors until the first first Saturday in April following creation of the district, two persons to serve as directors until the second first Saturday in April following creation of the district, and one person to serve as a director until the third first Saturday in April following creation of the district.

(g) If a majority of the voters at the election vote against the creation of the district and the adoption of the sales and use tax, another election to confirm creation of the district and to adopt the tax may not be called and held by the authority board for at least 12 months following the most recent confirmation election. If the district is not created within three years after adoption of this Act, this Act expires.

(h) If the creation of the district is authorized at the initial election called and held under this section, the district shall reimburse the authority for all costs and expenditures of the authority incurred by the authority in calling and holding the election. Reimbursement shall be made from the flood control fund. If subsequent confirmation and tax elections are called, the authority board must have funds available to pay the costs of the election available from sources other than funds of the authority before the order is issued calling the election.

SECTION 5. BOARD OF DIRECTORS. The district shall be governed by a board of directors composed of five members, who are appointed as provided by this Act.

SECTION 6. QUALIFICATIONS OF DIRECTORS. To be qualified to serve as a director, a person must be at least 18 years old and must be a resident of the district.

SECTION 7. TERM OF OFFICE. Except for the initial directors appointed under Section 4 of this Act, a director shall hold office for a term of three years and until his successor is appointed and has qualified. Terms expire on the first Saturday in April.

SECTION 8. APPOINTMENT OF DIRECTORS. Not more than 30 days before the first Saturday in April in each year, the authority board shall appoint the appropriate number of persons to serve as members of the board.

SECTION 9. DIRECTORS' POSITIONS. The board by order may assign a position number to each director's office. After that time, each director shall be appointed to a particular numbered position.

SECTION 10. BEGINNING OF DIRECTOR'S TERM. A director shall take office on the first Saturday in April following his appointment to the board.

SECTION 11. VACANCY ON BOARD. A vacancy on the board shall be filled by appointment of the authority board for the unexpired term.

SECTION 12. OATH. Each director shall take the constitutional oath of office required of state officers.

SECTION 13. COMPENSATION AND TRAVEL EXPENSES. A director is not entitled to receive compensation for his services, but may receive a travel allowance in the same amount as provided by the General Appropriations Act for state employees.

SECTION 14. ORGANIZATION OF BOARD. (a) On the first Saturday in April, the board shall hold a regular meeting at the district office and shall organize by electing officers.

(b) The members of the board shall select from their number at that regular meeting one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary.
(c) Persons selected to serve as chairman, vice-chairman, and secretary shall serve for terms of one year.
(d) The chairman shall preside over meetings of the board, and in his absence, the vice-chairman shall preside.
(e) The chairman, vice-chairman, and secretary shall perform the duties and may exercise the powers specifically given them by this Act or by orders of the board.

SECTION 15. QUORUM. A majority of the members of the board constitutes a quorum for the transaction of business of the district, and no official action of the board is valid without the affirmative vote of a majority of the members of the board.

SECTION 16. OTHER DISTRICT OFFICERS. (a) The board shall appoint persons to serve as treasurer and attorney for the district.
(b) The persons appointed under this section are entitled to the compensation provided by the district's budget.
(c) The person appointed as treasurer shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the treasurer's duties. The district shall pay for the bond.

SECTION 17. GENERAL MANAGER. (a) The board shall employ a general manager who shall be the chief administrative officer of the district and may delegate to him full authority to manage and operate the affairs of the district subject only to orders of the board.
(b) The general manager shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the general manager's duties. The district shall pay for the bond.
(c) The general manager is entitled to receive the compensation provided in the district's budget.

SECTION 18. DISTRICT ENGINEER. (a) The board shall appoint a competent professional civil engineer for the district.
(b) The board shall employ necessary assistants to the district engineer to assist him in carrying out his powers and duties.
(c) The district engineer and his assistants are entitled to the compensation provided in the district's budget.
(d) The district engineer shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the district engineer's duties. The district shall pay for the bond.

SECTION 19. PERSONNEL. (a) The general manager shall employ other persons necessary for the proper handling of the business and operation of the district and may employ or contract with expert and specialized personnel who are necessary to carry out this Act.
(b) The board shall determine the terms of employment and the compensation to be paid to employees under this section.
(c) The general manager or a majority of the members of the board may dismiss an employee of the district.
(d) The board shall require each employee or person under contract to the district who collects, pays, or handles any funds of the district to furnish a bond, payable to the district, for an amount sufficient to protect the district from financial loss resulting from actions of the employee or other person. Each bond shall be conditioned on the faithful performance of the employee's or person's duties and on accounting for all money and property of the district in his hands. The district shall pay for each bond.

SECTION 20. DISTRICT OFFICE. (a) The board shall maintain an office in the district for conducting the business of the district.
(b) The board may provide for the planning, acquisition, and construction of a district office and may use not to exceed $250,000 from the flood control fund for this purpose.
SECTION 21. MEETINGS OF BOARD. The board shall hold regular meetings at the district office at least once each month on a date established by rule of the board.

SECTION 22. MINUTES AND RECORDS. (a) The board shall keep a complete written account of all its meetings and other proceedings, and shall preserve its minutes, contracts, records, plans, notices, accounts, receipts, and records of all kinds in a secure manner at the district office.

(b) Minutes, contracts, records, plans, notices, accounts, receipts, and other records are the property of the district and are subject to public inspection.

SECTION 23. CONTRACTS. The board may enter into contracts with anyone as provided by this Act, and those contracts shall be executed in the name of the district.

SECTION 24. RULES. (a) After notice and hearing, the board may adopt rules to carry out this Act.

(b) The board shall adopt rules providing procedures for giving notice and holding hearings before the board.

SECTION 25. ASSISTANCE OF DEPARTMENT. On request of the board, the department shall provide assistance to the district in carrying out its powers and duties.

SECTION 26. SUPERVISION OF DISTRICT. The district is subject to the continuing right of supervision of the state, to be exercised by the department under this Act and the Water Code.

SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the chairman of the board.

(b) The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against the district may require the board to pay the judgment from money in the district's flood control fund that is not dedicated to the payment of any indebtedness of the district.

SECTION 28. SEAL. The board shall adopt a seal for the district.

SECTION 29. GENERAL POWERS. For the purpose of carrying out this Act, the district may:

(1) apply for, accept, receive, and administer gifts, grants, and other funds available from any source; and

(2) advise, consult, and cooperate with the federal government and its agencies, the state and its agencies, local governments, and private entities.

SECTION 30. DISTRICT FLOOD CONTROL AND DRAINAGE PLAN. (a) At the first meeting of the board, the board shall direct the district engineer to prepare a district flood control and drainage plan that will provide for control and abatement of flood water and other excess water and reclamation and proper drainage of land in the district and, on completion, to file the plan with the board.

(b) In preparing the plan, the district engineer may exercise the powers and shall exercise the duties provided by Sections 56.022 and 56.023, Water Code.

(c) A copy of the completed plan shall also be submitted to the department for its comments.

(d) In preparing the plan for the district, the district engineer may consider and use all or part of any previously prepared flood control and drainage plan that covers the area of the district.

SECTION 31. NOTICE AND HEARING ON PLAN. (a) On receiving the plan, the board shall schedule a hearing to consider the adoption of the plan.

(b) At the hearing, any person who resides or owns property in the district may appear before the board and present testimony and evidence for or against all or any part of the plan.
SECTION 32. CHANGING AND APPROVING PLAN. (a) Not later than the 10th day after the last day of a hearing under Section 31 of this Act, the board shall issue its findings and decision.

(b) If the board finds that the plan requires changes before it can be approved, the board's order shall direct the district engineer to make any changes in the plan the board considers necessary. The district engineer shall make any changes in the plan necessary to comply with the board's order and resubmit the plan to the board.

(c) Without further hearings, the board may continue to order the district engineer to make changes in the plan until the board finds the plan acceptable.

(d) After the hearing under Section 31 of this Act, if the board finds that no changes are required in the plan or after the district engineer has made all necessary changes in the plan under Subsections (b) and (c) of this section, the board shall issue an order approving the plan.

SECTION 33. PAYMENT FOR PLAN. (a) Funds acquired from the department and from the authority and money in the flood control fund may be used to pay the costs of preparing and adopting the plan.

(b) The district shall reimburse the authority for any funds provided by or costs incurred by the authority in preparing the plan.

SECTION 34. AMENDING PLAN. After notice and hearing, the board may amend the plan to make changes necessary to accomplish the purposes stated in Section 30(a) of this Act.

SECTION 35. IMPROVEMENTS TO BE CONSTRUCTED. (a) Improvements included in the plan and adopted by the board shall be constructed.

(b) The district may use money in the flood control fund to pay for the cost of constructing and maintaining improvements.

SECTION 36. LOCAL COOPERATION. The district shall cooperate with other local governments as far as possible to provide uniform programs and coordinated planning.

SECTION 37. DISTRICT SUPERIOR IN DRAINAGE MATTERS. The district has primary jurisdiction within its boundaries over all matters affecting flood control and drainage of land within Montgomery County and may take any action necessary to assure compliance with the district's plan adopted under this Act.

SECTION 38. NOTICE OF ACTIVITIES AFFECTING DRAINAGE. (a) Any person who plans to engage in any activity that will alter or otherwise affect flood control on or drainage of land within Montgomery County shall submit to the board written notice of the intent to engage in the activity together with plans, specifications, and other information relating to the activity.

(b) The notice, plans, specifications, and other information shall be submitted to the board in the form and manner and within the time provided by the district's rules.

SECTION 39. CONSIDERATION OF ACTIVITY BY ENGINEER. (a) On receiving the notice under Section 38 of this Act, the board shall submit the notice, plans, specifications, and other information to the district engineer for consideration.

(b) The district engineer shall examine the material and information to determine the effect of the proposed activities on flood control on and drainage of land within the district and whether or not the proposed activity will be compatible with the plan.

(c) The district engineer shall consult with the person submitting the materials and information and shall seek agreement of that person to any changes in the proposed plans and specifications for the activity that will make them compatible with the district's plan.

(d) If the district engineer and the person proposing to engage in the activity agree to plans and specifications for the activity that are compatible with the
district's plan as determined by the district engineer, the district engineer shall recommend to the board the issuance of a certificate. If the district engineer and the person proposing to engage in the activity cannot agree, the district engineer shall recommend to the board that a certificate not be issued. The district engineer's recommendation shall be included in a brief written report to the board stating the district engineer's reasons for his recommendation.

SECTION 40. BOARD CONSIDERATION AND ACTION. (a) On receiving the district engineer's report, the board may issue a certificate without giving notice and holding a public hearing to consider the issuance.

(b) On consideration of the district engineer's report, if the board decides to deny issuance of a certificate, it shall first give notice and hold a public hearing to consider the issuance of the certificate. Notice shall be given and the hearing held under procedures in the district's rules.

(c) Not later than the 10th day after the day on which a hearing to consider issuance of a certificate concludes, the board shall issue a written decision approving or denying the certificate subject to specific requirements of the board. The decision shall state the findings of the board in making the decision.

SECTION 41. CERTIFICATE REQUIRED. Except as provided by Section 42 of this Act, a person may not engage in any activity that will alter or otherwise affect flood control or drainage of land within Montgomery County without obtaining a certificate from the board.

SECTION 42. EXEMPTIONS. After notice and hearing, the board may adopt a rule or issue an order that exempts any specified activity from the requirements of Sections 38 through 41 of this Act if the board finds that that activity will have a minimal impact or no impact on flood control and drainage as provided by the plan.

SECTION 43. REMOVAL OF OBSTRUCTIONS. (a) A person may not place an obstruction or construct or alter a structure on land in Montgomery County if the obstruction or structure is not compatible with the district's plan and no certificate has been issued.

(b) After notice and hearing, the board may issue an order directing any person to remove an obstruction or structure constructed after adoption of the district plan or to make changes in an obstruction or structure constructed after the adoption of the district plan to make it compatible with the plan.

SECTION 44. INJUNCTIVE RELIEF. If a person engages in an activity that will alter or otherwise affect flood control or drainage within Montgomery County without a certificate or if a person places an obstruction or constructs or alters a structure in violation of an order issued by the board under Section 43(b) of this Act, the board may have a suit brought in a district court in Montgomery County for injunctive relief to restrain the person from continuing or threatening to continue the violation and to require the person to remove any such obstruction or structure.

SECTION 45. CIVIL PENALTY. (a) A person who violates Section 41 or 43 of this Act or any order issued by the board pursuant to Section 41 or 43 of this Act is subject to a civil penalty of not less than $100 nor more than $1,000 for each act of violation and for each day of violation.

(b) If a suit is filed under this section to recover a civil penalty, the court may include in any final judgment in favor of the district an award to cover court costs and reasonable attorney's fees.

SECTION 46. REGULATION OF LOCAL GOVERNMENTS. (a) Local governments located within Montgomery County shall comply with this Act and rules and orders adopted under this Act.
(b) The board may require any local government to remove or alter obstructions or structures in the same manner as applies to private entities.

SECTION 47. ACQUISITION OF PROPERTY. The district may acquire by gift, grant, purchase, or condemnation any land, easements, rights-of-way, and other property interests necessary to construct district improvements and may acquire by purchase or lease a location for the district office.

SECTION 48. EMINENT DOMAIN. (a) The district may acquire land for district improvements by condemnation when the board determines, after notice and hearing, that it is necessary.

(b) The right of eminent domain shall be exercised by the district in the manner provided by Title 52, Revised Statutes, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade, or alteration of the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or changing in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 49. CONSTRUCTION BIDS. Construction contracts requiring an expenditure of more than $5,000 may be made only after competitive bidding as provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2347a.3, Vernon's Texas Civil Statutes).

SECTION 50. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall pay the contract price of construction contracts as provided by this section.

(b) The district will make progress payments under construction contracts monthly as the work proceeds, or at more frequent intervals as determined by the board, on estimates approved by the board.

(c) If requested by the board, the contractor shall furnish a breakdown of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the board may authorize material delivered on the site and preparatory work done to be considered if the consideration is specifically authorized by the contract and if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by this contract.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it shall authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, at its discretion may release to the contractor all or a portion of the excess amount.

(e) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the flood control fund and any other fund available for this purpose to pay any balance due on the contract.
SECTION 51. CONTRACTOR’S BOND. A contractor shall execute a bond for the amount of the contract price, payable to the board and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants in the contract and on payment to the district of damages sustained as a result of any default.

SECTION 52. CHANGES, ADDITIONS, AND IMPROVEMENTS. If the board determines that a necessity exists, it may make changes in, additions to, and improvements in the flood control and drainage system of the district.

SECTION 53. USE OF DISTRICT FUNDS. (a) The board may use money in the flood control fund to pay for construction, acquisition of property, and maintenance of flood control and drainage systems of the district and changes, additions, and improvements to those systems.

(b) If the district is participating with another local government in the construction or acquisition of any property or facility, the district may pay its pro rata share of the costs of the property or facility from the flood control fund.

SECTION 54. OTHER POWERS AND DUTIES. In addition to the powers and duties specifically granted or imposed by this Act, the board and the district may exercise the powers and shall perform the duties provided by Sections 56.111; 56.112(a) and (b); 56.113; 56.114; 56.115; 56.116(a), (b), and (c); 56.120; 56.121; 56.128; 56.130; 56.133; 56.134; 56.135; 56.140; 56.141; 56.142; and 56.143. Water Code. Any actions assigned to or references made to the commissioners court or the county judge under those specific sections shall be performed by or referred to the board.

SECTION 55. ISSUANCE OF BONDS. The district may issue bonds secured by money in the flood control fund and revenues of the district to provide the improvements authorized under this Act as provided by Sections 54.502, 54.503(2), 54.504, 54.510 through 54.515, 54.517, 54.520, and 54.521, Water Code. Section 54.5161, Water Code, does not apply to issuance of bonds of the district.

SECTION 56. EXPENDITURES. The district’s money may be disbursed only by check, draft, order, or other instrument which shall be signed by the treasurer of the district when authorized by resolution of the board, and these need not be signed by anyone else.

SECTION 57. DEPOSITORY. (a) The board, by order or resolution, shall designate one or more banks inside the district to serve as the depository for the funds of the district. All funds of the district shall be deposited in the depository bank or banks.

(b) To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

(c) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district’s funds provided the actions of the designated representative have the prior written approval of the board.

SECTION 58. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state. Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on such terms as the board considers advisable.
SECTION 59. MONTGOMERY COUNTY FLOOD CONTROL DISTRICT FLOOD CONTROL FUND. (a) The district shall establish the Montgomery County Flood Control District flood control fund. The flood control fund shall be maintained by the board in the district depository. All income from interest earned on and from investments of the fund shall be deposited in the fund. The flood control fund may be used only for the purpose of preparing, adopting, and administering the plan, for acquiring and constructing facilities and improvements for the district, and for any other purposes specifically provided by this Act. In allocating the use of the flood control fund, the board shall give priority to the needs within the district to prevent property damage and personal injury due to flooding and erosion.

(b) No money may be expended from the flood control fund except for the purposes stated in this Act.

(c) Money deposited to the credit of the flood control fund may be spent by the board only in the amounts provided by this subsection. All interest earned and other revenue received from the investment of the flood control fund may be spent by the board for the purposes provided by this Act. If a tax is imposed under Section 60 of this Act, the following amounts may be spent for purposes provided by this Act for each full year during the first six years that the tax is in effect within the district:

<table>
<thead>
<tr>
<th>Year in which tax is</th>
<th>Amount of tax revenue that may be spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>60 percent</td>
</tr>
<tr>
<td>2</td>
<td>50 percent</td>
</tr>
<tr>
<td>3</td>
<td>40 percent</td>
</tr>
<tr>
<td>4</td>
<td>30 percent</td>
</tr>
<tr>
<td>5</td>
<td>20 percent</td>
</tr>
<tr>
<td>6</td>
<td>10 percent</td>
</tr>
</tbody>
</table>

(d) After the tax imposed under Section 60 of this Act has been in effect for six years, only income from the principal of the flood control fund may be spent, and all tax revenue shall be retained in the flood control fund as principal.

(e) The flood control fund must be invested as provided by Section 58 of this Act. Money that may be spent under Subsections (c) and (d) of this section may be pledged to payment of bonds of the district. The principal of the fund may not be pledged or otherwise obligated for the payment of any indebtedness.

SECTION 60. TAX. (a) If the tax authorized by this section is adopted, the tax becomes effective within the district as follows: There shall elapse one whole calendar quarter after the comptroller receives notice of the adoption of the tax authorized by this Act and a copy of a description and map of the boundaries of the district. Thereafter the tax is effective on the first day of the first calendar quarter following the elapsed calendar quarter.

(b) If the validity of the confirmation and tax election or any result of the election based on the returns of the election is contested, the election contest shall be filed and tried as provided in the Texas Election Code; except that the contestant shall notify the comptroller by United States registered mail or certified mail within 10 days after filing the contest by mailing a copy of the notice of contest to the comptroller showing the style of the contest, the date filed, the case number, and the court in which it is pending. A contest may not be heard unless the comptroller is timely notified as provided by this subsection. On receipt of a notice of contest, the date on which the sales and use tax shall become effective in the district as a result of the election shall be suspended. If a final judgment is entered for the election in the election contest, the presiding officer of the authority board shall so notify the comptroller by United States registered mail or certified mail and shall enclose a certified copy of the final judgment. If the judgment sustains the validity
of the election or the results of the election so that the sales and use tax status under this Act of the district is changed, the comptroller shall place in effect the tax in the district, substituting the notice of final judgment and the date on which it is received for the notice of the result of the election.

(c) Subject to approval at the confirmation and tax election, the board may levy, collect, and impose a sales and use tax for the benefit of the district, the sales tax portion of which is one percent on receipts from the sale of all taxable items within the district area which are subject to taxation under the provisions of the Limited Sales, Excise, and Use Tax Act (Chapter 151, Tax Code).

(d) In this section:

(1) "District area" means the geographical limits of the district.

(2) "Comptroller" means the Comptroller of Public Accounts of Texas.

(3) "Local Sales and Use Tax" means the sales and use tax imposed by a city under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes).

(4) "Limited Sales, Excise, and Use Tax Act" means the state sales and use tax imposed by Chapter 151, Tax Code.

(e) Every retailer within the district area shall add the tax imposed by the Limited Sales, Excise, and Use Tax Act, any applicable Local Sales and Use Tax, and the tax imposed under the authority of this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined taxes on the transaction shall be determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent which is less than one-half of one cent of tax shall not be collected. Any fraction of one cent of tax equal to one-half of one cent or more shall be collected by the retailer as a whole cent of tax. However, any retailer who can establish to the satisfaction of the comptroller that 50 percent or more of his receipts from the sale of taxable items arise from individual transactions where the total sales price when multiplied by the combined rates of the taxes imposed under the Limited Sales, Excise, and Use Tax Act, any applicable Local Sales and Use Tax, and this section equals an amount that is less than one-half of one cent may exclude the receipts from those sales when reporting and paying the tax imposed under this section, the Limited Sales, Excise, and Use Tax Act, and any applicable Local Sales and Use Tax. A retailer may not avail himself of this provision without prior written approval of the comptroller. The comptroller shall grant the approval when he is satisfied that the retailer qualifies on the basis set forth in this section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion. Any attempt by a retailer to exercise this provision without prior written approval of the comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this section, the Limited Sales, Excise, and Use Tax Act, and any applicable Local Sales and Use Tax, and the retailer shall be subject to assessment for taxes, penalties, and interest as provided for in this section, the Limited Sales, Excise, and Use Tax Act, and any applicable Local Sales and Use Tax.

(f)(1) In the district area where the tax authorized by this section has been adopted pursuant to this section, there is imposed an excise tax on the storage, use, or other consumption within the district of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use, or other consumption in the district at the same rate as the sales tax levied under this Act on the sales price of the taxable item or, in the case of leases or rentals, on the lease or rental price. Except as provided in Paragraph (4) of this subsection, the use tax imposed by this section is not owed to and may not be collected by, for, or in behalf of a district if no excise
tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise, and Use Tax Act or if the tangible personal property is first stored, used, or consumed within an area outside the district area.

(2) In the district, the excise tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable excise tax under the Local Sales and Use Tax Act on the storage, use, or other consumption of taxable items, and the excise tax imposed by this section shall be added together to form a combined rate of excise tax which is equal to the sum of the applicable taxes. The tax imposed by this section shall be collected by the comptroller on behalf of and for the benefit of the district. The formula prescribed in Subsection (e) of this section shall be applicable to the collection of the excise tax imposed under this section.

(3) The Limited Sales, Excise, and Use Tax Act is applicable to the collection of the tax imposed by this section, provided that in Subchapter D of Chapter 151, Tax Code, the name of the district shall be substituted for that of the state where the words "this state" are used to designate the taxing authority or to delimit the tax imposed.

(4) If a sale of tangible personal property is consummated within the state but not within the district and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into the district, the tangible personal property is subject to the use tax imposed by the district under Paragraph (1) of this subsection. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

(5) If the tangible personal property is shipped from outside the state to a customer within this state, the tangible personal property is subject to the use tax imposed by Paragraph (1) of this subsection and not the sales tax imposed by Subsection (e) of this section. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established.

(6) There are exempted from the sales taxes imposed by this section receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the district area by the retailer by means of:

(B) delivery by the retailer to a carrier for shipment to a consignee at such point; or

(C) delivery by the retailer to a customs broker or forwarding agent for shipment outside the district.

(g)(1) On and after the effective date of any tax imposed under this section, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act, an additional tax under the authority of this section at the rate of one percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the district area, which items are subject to the Limited Sales, Excise, and Use Tax Act. This tax and the tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax shall be collected together and reported on the forms and under the administrative rules and regulations that are prescribed by the comptroller and that are not inconsistent with the provisions of this section.

(2) The comptroller shall make to the district substantially the same reports as to taxes within the district area as are made to cities under Subsections 5(b), (c), and (d), Local Sales and Use Tax Act.
The following provisions shall govern the collection by the comptroller of the tax imposed by this section:

(1) All applicable provisions contained in Title 2, Tax Code, shall apply to the collection of the tax imposed by this section, except as modified in this Act.

(2) The provisions contained in Section 6, Local Sales and Use Tax Act, shall apply to the levy, imposition, and collection of the tax imposed under this section except as modified by this section.

(3) The penalties provided in Title 2, Tax Code, for violation of that title, are made applicable to violations of this section.

(4) The sales and use tax collected by the comptroller under this section shall be deposited, held, accounted for, and transmitted for the district as provided by Section 7, Local Sales and Use Tax Act.

(i) Each district’s share of all sales and use tax collected under this section by the comptroller shall be transmitted to the treasurer or the officer performing the functions of that office of the district by the comptroller payable to the district periodically as promptly as feasible. Transmittals required under this section shall be made at least twice in each state fiscal year. Before transmitting the funds, the comptroller shall deduct two percent of the sum collected during the period as a charge by the state for its services specified in this section, and the amounts deducted shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund of the state. The comptroller is authorized to retain in the suspense account of the district a portion of the district’s share of the tax collected under this section. The balance retained in the suspense account may not exceed five percent of the amount remitted to the district. The comptroller may make refunds from the suspense account of the district for overpayments made to the account and to redeem dishonored checks and drafts deposited to the credit of the suspense account of the district. When the tax is repealed, the comptroller may retain in the suspense account of the district for a period of one year five percent of the final remittance at the time of termination of collection of the tax to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of the accounts. After one year has elapsed after the effective date of abolition of the tax, the comptroller shall remit the balance in the account to the district and close the account.

(k)(1) In the district, if any person is delinquent in the payment of the amount required to be paid by him under this section or in the event a determination has been made against him for taxes and penalty under this section, the comptroller shall notify the district by United States registered mail or certified mail and shall send a copy of the notice to the attorney general. The district, acting through its attorney, may join in any suit brought by the attorney general as a party plaintiff to seek a judgment for the delinquent taxes and penalty due. The notice sent by the comptroller to the district showing the delinquency of a taxpayer constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of sales and use tax set forth in the notice.

(2) If property is seized by the comptroller under any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the Limited Sales, Excise, and Use Tax Act, where any person is delinquent in payment of taxes under this section, the comptroller may sell sufficient property to pay the delinquent taxes and penalty due the district under this section.
in addition to that required to pay any amount due the state under the Limited Sales, Excise, and Use Tax Act and due any city under the Local Sales and Use Tax Act. The proceeds from the sale shall first be applied to all sums due the state, then all sums due any city under the Local Sales and Use Tax Act, and the remainder, if any, shall be applied to all sums due the district.

(3) The district may bring suit for the collection of sales, excise, or use taxes imposed by this section which have been certified as provided in Paragraph (1) of this subsection and are owed to the district if at least 60 days before the filing of the suit, written notice by certified mail of the tax delinquency and of the intention to file suit is given to the taxpayer, the comptroller, and the attorney general and if neither the comptroller nor the attorney general disapproves the suit by written notice to the district.

(4) The comptroller or attorney general may disapprove the institution of tax suit by the district if:

(A) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the district seeking to bring suit;

(B) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(C) the state will bring suit against the taxpayer for the collection of all sales, excise, and use taxes due under the Limited Sales, Excise, and Use Tax Act and this section; or

(D) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States Constitution in which the state has an overriding interest.

(5) A notice of disapproval to the district must give the reason for the determination of the comptroller or attorney general. A disapproval is final and not subject to review. The district, after one year from the date of the disapproval, may proceed again as provided in Paragraph (3) of this subsection even though the liability of the taxpayer includes taxes for which the district has previously given notice and the comptroller or attorney general has previously disapproved the suit.

(6) In any suit under this subsection for the collection of the district tax, a judgment for or against the taxpayer does not affect any claim against the taxpayer by a city or the state unless the state is a party to the action.

(7) A copy of the final judgment in favor of the district in a case in which the state is not a party shall be abstracted by the district and a copy of the judgment together with a copy of the abstract shall be sent to the comptroller. The district shall collect taxes awarded to it under the judgment as provided by Section 151.608(e), Limited Sales, Excise, and Use Tax Act, and is responsible for renewal of the judgment before the expiration of the 10-year period. If a collection is made by the district on a judgment, notice of the amount collected shall be sent by certified mail to the comptroller. The comptroller may prescribe a form for the notice to be used by authorities.

(8) All money received from the comptroller by the district under this section shall be deposited to the credit of the flood control fund.

(m) As soon as the principal in the flood control fund equals the amount of $100 million, the chairman of the board shall send to the comptroller a notice of that fact. Effective on the first January 1 after 90 days after the comptroller receives the notice required by this subsection, the sales and use tax authorized by this section is repealed.

SECTION 61. POSITION OF DISTRICT AND AUTHORITY. The district created by this Act is an independent conservation and reclamation district and has complete authority to carry out its powers and duties under this Act independent of any other district, authority, or other political subdivision of the state. The San
Jacinto River Authority has only such authority over the district as is specifically granted by this Act and is not required to be a party to any actions taken by the district under this Act except as specifically provided by this Act.

SECTION 62. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted without objection.

HB 2427, as amended, was passed to engrossment. (Fox recorded voting no)

HB 1947 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1947.

CSHB 1947

A BILL TO BE ENTITLED
AN ACT
relating to an extension of the jurisdiction of the Texas Youth Commission to a person under the age of 21.

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

SECTION 1. Section 61.084, Human Resources Code, is amended to read as follows:

Sec. 61.084. TERMINATION OF CONTROL. The Commission shall discharge from its custody a child not already discharged on his or her 21st [18th] birthday.

SECTION 2. Section 54.05(b), Family Code, is amended to read as follows:

(b) Except for a commitment to the Texas Youth Commission, all [All] dispositions automatically terminate when the child reaches his 18th birthday.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.11 to read as follows:

SECTION 54.11. Extension of Incarceration to age 21.

(a) On or before the 18th birthday of a child who has been committed to the Texas Youth Commission, the Texas Youth Commission or its designated representative may petition the Court which committed the child to the Texas Youth Commission on the most recent order to extend the incarceration of the child until the 21st birthday of the child. Upon 30 days notice to the prosecuting attorney and all persons entitled to notice pursuant to Section 53.06 the court shall set a hearing for purposes of determining whether or not the child should be incarcerated at the Texas Youth Commission until his 21st birthday. After hearing, the court may order the child incarcerated at the Texas Youth Commission if the court makes the following findings:

(1) The child has exhibited violent tendencies while incarcerated at the Texas Youth Commission, and

(2) The child would be a danger to the public if released.

(b) The Texas Youth Commission may release the child at any time prior to his 21st birthday following determination by the Texas Youth Commission that the child no longer would be a danger to the public if released.

SECTION 4. This Act takes effect September 1, 1983, and does not apply to delinquent conduct committed before the effective date of this Act. Delinquent conduct committed before the effective date of this Act is governed by the law as
it existed on the date the conduct was committed, and that law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1947 was read second time.

Representative Waldrop offered the following amendment to CSHB 1947:

Amend CSHB 1947 as follows:

1. On page 1, line 18, strike "(a)".
2. On page 2, line 2, strike "the child should be incarcerated at" and substitute "to extend the child's indeterminate sentence to".
3. On page 2, line 4, strike "order the child incarcerated at" and substitute "extend the child's indeterminate sentence to".
4. On page 2, lines 10-13, strike Subsection (b) of added Section 54.11.

The amendment was adopted without objection.

CSHB 1947, as amended, was passed to engrossment. (A. Smith and Green recorded voting no)

HB 742 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 742.

CSHB 742

A BILL TO BE ENTITLED
AN ACT

relating to reports by the division heads of the Department of Public Safety regarding the efficiency of its employees.

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

SECTION 1. Subdivision (4), Section 9, Chapter 181, General Laws, Acts of the 44th Legislature, Regular Session, 1935 (Article 4413(9), Vernon's Texas Civil Statutes), is amended to read as follows:

(4) The chiefs of the several Divisions and Bureaus, after due investigation, shall at least annually (once each six months) make a report to the Commission of the efficiency of each employee within such Division or Bureau. These reports shall be kept in the permanent files of the Commission, and shall be given proper consideration in all matters of promotion and discharge.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 742 was read second time and was passed to engrossment.

HB 855 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment.

HB 855, A bill to be entitled An Act relating to the discretion of the court to allow certain persons convicted of crimes to serve their sentences during off-work hours or on weekends.
The bill was read second time and was passed to engrossment. (Schlueter and Hollowell recorded voting no)

**HB 30 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for **HB 30**.

CSHB 30

**A BILL TO BE ENTITLED**

**AN ACT**

relating to the Uniform Enforcement of Foreign Judgments Act.

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

SECTION 1. Section 5, Uniform Enforcement of Foreign Judgments Act (Article 2328b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. FEES. (a) A person filing a foreign judgment shall pay [§-ffl] to the clerk of the court the amount as otherwise provided by law for filing suit in the courts of this state. Fees for other enforcement proceedings shall be as otherwise provided by law for judgments of the courts of this state.

(b) Filing fees are due and payable at the time of filing.

SECTION 2. This Act takes effect September 1, 1983, and applies to Foreign judgments filed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 30 was read second time and was passed to engrossment.

**HB 2087 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for **HB 2087**.

CSHB 2087

**A BILL TO BE ENTITLED**

**AN ACT**

relating to the application of the Health Facilities Development Act to certain types of health facilities for adults, and to costs incurred by a health facility.

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

SECTION 1. Subdivisions (5) and (10), Section 1.03, Health Facilities Development Act (Article 1528j, Vernon's Texas Civil Statutes), are amended to read as follows:

(5) "Cost" as applied to a health facility, as herein defined, means and includes any and all costs of such health facility and, without limiting the generality of the foregoing, shall include the following:

(A) the cost of the acquisition of all land, rights-of-way, options to purchase land, easements, leasehold estates in land, and interests of all kinds in land related to such health facility;

(B) the cost of the acquisition, construction, repair, renovation, remodeling, or improvement of all buildings and structures to be used as or in conjunction with such health facility;

(C) the cost of site preparation, including the cost of demolishing or removing any buildings or structures the removal of which is necessary or incident to providing such health facility;
(D) the cost of architectural, engineering, legal, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of such health facility;

(E) the cost of all machinery, equipment, furnishings, and facilities necessary or incident to the equipping of such health facility so that it may be placed in operation;

(F) the cost of financing charges and interest prior to and during construction and for a maximum of two years after completion of construction and for a maximum of two years after completion of construction;

(G) any and all costs paid or incurred in connection with the financing of such health facility, including out-of-pocket expenses and compensation described in Subsection (e) of Section 4.04 hereof and further including without limitation the cost of financing, legal, accounting, financial advisory, and appraisal fees, expenses, and disbursements; the cost of any policy or policies of title insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent; and

(H) all direct and indirect costs of the corporation, as herein defined, incurred in connection with providing such health facility, including without limitation reasonable sums to reimburse such corporation for time spent by its agents or employees with respect to providing such health facility and the financing thereof.

(I) "Health facility" means and includes any real, personal, or mixed property, or any interest therein, the financing, refinancing, acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing, or equipping of which is found by the board of directors of the corporation to be required, necessary, or convenient for health care, research, and education, any one or more, within this state, regardless of whether such property is in existence or is to be provided after the making of such finding. Without limiting the generality of the foregoing and when found by the board of directors of a corporation, as herein defined, to be so required, necessary, or convenient, "health facility" shall include any combination of one or more of the following:

(A) any land, buildings, equipment, machinery, furniture, facilities, and improvements;

(B) any structure suitable for use as a hospital, clinic, health facility, nursing home, extended-care facility, life-care facility, out-patient facility, rehabilitation facility, pharmacy, medical laboratory, dental laboratory, physicians' office building, ambulatory care facility, administrative facility, computer facility, communication facility, fire-fighting or fire-prevention facility, food service and preparation facility, parking facility or parking area, storage facility, utility facility, x-ray facility, or building related to any health-care or health-care-related facility or system;

(C) any structure suitable for use as a multiunit housing facility for medical staff, nurses, interns, and other employees of a health-care or health-care-related facility or system and the relatives of such persons, patients of a health-care facility, or relatives of patients admitted for treatment or care in a health-care facility;

(D) any structure suitable for use as a medical or dental research facility, medical or dental training facility, or any other facility used in the education or training of health-care personnel;

(E) any adult foster care facility, retirement home, retirement village, home for the aged, or other facility that undertakes to furnish shelter, food, medical attention, nursing services, medical services, social activities, or other personal services or attention to an individual for more than one year;

(F) any property or material used in the landscaping, equipping, or furnishing of a health-care or health-care-related facility or any similar items necessary or convenient for the operation of a health-care or health-care-related facility; and
any other structure, facility, or equipment related to or essential to the operation of any health-care or health-care-related facility or system except that a health facility shall not include any nursing home organized for profit.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 2087 was read second time.

Representative D. Lee offered the following amendment to CSHB 2087:

Amend CSHB 2087 by striking all below the enacting clause and substituting the following:

SECTION I. Section I.03, Health Facilities Development Act (Article 1528j, Vernon's Texas Civil Statutes), is amended by amending Subdivision (5) and adding Subdivision (14) to read as follows:

(5) "Cost" as applied to a health facility, as herein defined, means and includes any and all costs of such health facility and, without limiting the generality of the foregoing, shall include the following:

(A) the cost of the acquisition of all land, rights-of-way, options to purchase land, easements, leasehold estates in land, and interests of all kinds in land related to such health facility;

(B) the cost of the acquisition, construction, repair, renovation, remodeling, or improvement of all buildings and structures to be used as or in conjunction with such health facility;

(C) the cost of site preparation, including the cost of demolishing or removing any buildings or structures the removal of which is necessary or incident to providing such health facility;

(D) the cost of architectural, engineering, legal, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of such health facility;

(E) the cost of all machinery, equipment, furnishings, and facilities necessary or incident to the equipping of such health facility so that it may be placed in operation;

(F) the cost of financing charges and interest prior to and during construction and for a maximum of two years after completion of construction and for a maximum of two years after completion of construction;

(G) any and all costs paid or incurred in connection with the financing of such health facility, including out-of-pocket expenses and compensation described in Subsection (e) of Section 4.04 hereof and further including without limitation the cost of financing, legal, accounting, financial advisory, and appraisal fees, expenses, and disbursements; the cost of any policy or policies of title insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent; and

(H) all direct and indirect costs of the corporation, as herein defined, incurred in connection with providing such health facility, including without limitation reasonable sums to reimburse such corporation for time spent by its agents or employees with respect to providing such health facility and the financing thereof.

(14) "Health facility" also includes, in addition to those items provided by Subdivision (10) of this section, any adult foster care facility, life-care facility, retirement home, retirement village, home for the aging, or other facility that
undertakes to furnish shelter, food, medical attention, nursing services, medical services, social activities, or other personal services or attention to an individual for more than one year.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Jackson offered the following amendment to the D. Lee amendment:

Amend CSHB 2087 by striking the period after the word “year” on line 5, page 3 and adding the following: “, except that no facility organized for profit is included in this subdivision.”

The amendment was adopted without objection.

The D. Lee amendment, as amended, was adopted without objection.

CSHB 2087, as amended, was passed to engrossment. (Saunders recorded voting no)

HB 1745 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1745.

CSHB 1745

A BILL TO BE ENTITLED
AN ACT
relating to mandatory joint elections held by political subdivisions and to the use of county election precincts and polling places.

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

SECTION 1. Sections 9c and 10, Texas Election Code (Articles 2.01c and 2.02, Vernon’s Texas Election Code), are amended to read as follows:

9c. JOINT ELECTIONS OF POLITICAL SUBDIVISIONS. (a) When two or more political subdivisions of this state are holding elections on the same day in all or part of the same territory, the [governing bodies of any two or more of the] political subdivisions shall [may agree] to hold their elections jointly in the election precincts that can be served by common polling places and shall join in an agreement regarding the conduct of the election as provided by Subsection (b) of this section. [When any other statute makes a joint election mandatory, a joint election must be held in accordance with the terms of the statute, and if any other political subdivisions are holding elections in any part of the same territory, any or all of them may also join in the agreement for a joint election.]

(b) When a joint election is to be held, a resolution reciting the terms of the agreement for holding the election, including the method for allocating the expenses for the election and including the other decisions made in connection with this subsection, shall be adopted by the governing body of each of the participating political subdivisions. The agreement may provide for use of a single ballot form at each polling place, to contain all the offices or propositions to be voted on at that polling place, or for separate ballot forms; provided, however, that no voter shall be given a ballot containing any office or proposition on which the voter is ineligible to vote. One set of election officers may be appointed to conduct the joint election, and any person who is qualified to serve as an election officer in the election of any one of the participating political subdivisions may be appointed to serve in the joint
election. Poll lists, tally lists, return forms, and other records for the various elections may be combined in any manner convenient and adequate to record and report the results of each election. Where paper ballots or punchcard ballots are used, one set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs for the joint election. Returns on joint or separate forms may be made to, and the canvass made by, each officer, board, or body designated by law to receive and canvass the returns for each election, or one of such officers, boards, or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authority. Where other records are combined, the officer designated by law to be the custodian of the records for any participating subdivision may be designated in the agreement to be the custodian of the combined records. Where the counted ballots for more than one subdivision are deposited in a single ballot box, the officer designated by law to be the custodian of the voted ballots for any one of the subdivisions may be designated in the agreement to be the custodian.

(c) The governing body of each political subdivision participating in the joint election shall appoint one representative to an election committee which shall implement the agreement for holding the election.

10. FORMATION OF ELECTION PRECINCTS: CONSOLIDATION FOR CERTAIN ELECTIONS. The following rules shall govern the establishment of election precincts and the designation of polling places for the conduct of the various kinds of elections held within this state.

(a) For each election held in a county [County-wide elections held at the expense of the county. In general elections for state and county officers, special elections called by the Governor (including both county-wide elections and elections to fill vacancies in offices elected by districts which are less than county-wide), and in all other county-wide elections held at the expense of the county other than elections coming within Subsection (d) of this section], the election precincts shall be the regular election precincts established by the commissioners court pursuant to Section 12 of this code (Article 2.04, Vernon's Texas Election Code) containing territory covered by the election. For an election ordered by the governor or a county authority, the commissioners court shall designate the polling place for each regular precinct, in accordance with the following procedure. The county officer in charge of election duties (the county elections administrator in a county which has that office and the county clerk in a county which does not have the separate office of county elections administrator) shall recommend to the commissioners court the location of the polling place for each precinct, and the commissioners court shall designate as the polling place the location so recommended unless good cause exists for rejecting the recommendation. A precinct’s regular polling place for the general election for state and county officers shall be used for each election ordered by an authority of a political subdivision other than the county. However, the subdivision’s governing body may designate a different polling place for a precinct if the governing body determines that the use of the regular polling place is not practicable.

(b) Municipal elections: The governing body of each incorporated city or town shall establish the election precincts and designate the polling places for elections held by such city or town, in accordance with the provisions of Section 13 of this Code.

(c) Elections held by other political subdivisions. In elections held by other political subdivisions (including but not limited to school districts, junior college districts, districts created pursuant to Article III, Section 52 or Article XVI, Section 59 of the Constitution of Texas, and other similar districts), the governing body of
the political subdivision shall establish the election precincts and designate the polling places for elections held by such subdivision:

[(d)] Elections held by the county, which affect another political subdivision:

In any election called by the commissioners court or the county judge in connection with or relating to the creation, organization, reorganization, functioning or existence of a municipality or of a political subdivision described in Paragraph (c) of this section, the authority calling the election shall designate the election precincts and the polling place in each precinct for such election:

[(e)] Other elections held by the county. In any other special election called by the commissioners court or the county judge which is ordered for only part of the county, the authority calling the election shall designate the election precincts and the polling place in each precinct for such election.

[(f)] Primary elections. In all primary elections held by political parties for nominating candidates to be voted on at general and special elections held at the expense of the county, the election precincts shall be the county election precincts established by the commissioners court pursuant to Section 12 of this Code.

(b) In a primary election or a special election ordered by the governor [(g) ---fn]

In any election for which the election precincts are required to be those formed under the provisions of Section 12 of this code], if in any county there is no local office or proposition to be voted on by the voters of only that county or a part of that county, the authority holding the election may combine any two or more regular election precincts into consolidated precincts for such election in that part of the county having no such local office or proposition to be voted on if it appears that the voters included within each consolidated precinct can be adequately and conveniently served at one polling place; provided, however, that there shall always be at least one consolidated precinct wholly within each commissioners precinct of the county.

[(e) [th] ---fn All election precincts, by whatever authority established, shall be described by natural or artificial boundaries or survey lines; and shall be designated by name or number.] There shall be one polling place, and no more, for each election precinct, and the notice of the election shall state the location of the polling place in each precinct.

SECTION 2. (a) Sections 13 and 14a, Texas Election Code (Articles 2.05 and 2.06a, Vernon’s Texas Election Code), are repealed.
(b) Article 978b, Revised Statutes, is repealed.

SECTION 3. Elections held during the period beginning on the effective date of this Act and ending on the 30th day after the effective date are subject to the laws on joint elections, the establishment of election precincts, and the designation of polling places as those laws existed on August 31, 1983, and those laws are continued in effect for those purposes.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1745 was read second time and was passed to engrossment.

HB 413 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 413.
A BILL TO BE ENTITLED
AN ACT
relating to the authority of a probation office in a judicial district to develop and administer programs for the supervision and rehabilitation of persons in pretrial diversion programs.

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

SECTION 1. Section 10(a), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

Sec. 10. (a) For the purpose of providing adequate probation services, the district judge or district judges trying criminal cases in each judicial district in the state shall establish a probation office and employ, in accordance with standards set by the commission, district personnel as may be necessary to conduct presentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of misdemeanor and felony probation. The district judge or judges may authorize district personnel to operate programs for the supervision and rehabilitation of persons in pretrial diversion programs. Persons in pretrial diversion programs may be supervised for a period not to exceed 12 months and may be assessed a supervisory fee or a program fee, or both, provided the maximum fee do not exceed a total of $200.00. If two or more judicial districts serve a county or a district has more than one county, one district probation department shall serve all courts and counties in the districts. However, the adult probation commission may adopt rules to allow more than one county if providing more than one probation department will promote administrative convenience or economy or improve probation services.

SECTION 2. Section 1.01 and Section 4.05(b), Article 42.121, Code of Criminal Procedure, 1965, are amended to read as follows:

Sec. 1.01. PURPOSES. The purposes of this article are to make probation services available throughout the state, to improve the effectiveness of probation services, to provide alternatives to incarceration by providing financial aid to judicial districts for the establishment and improvement of probation services and community-based correctional programs and facilities other than jails or prisons [and] to establish uniform probation administration standards, and to assist judicial districts that choose to participate in programs for the supervision of persons entering a pretrial diversion program in the implementation and maintenance of those programs.

Sec. 4.05. (b) The fiscal officer designated for the district shall deposit all state-aid received under this article in a special fund of the treasury, to be used solely for the provision of adult probation services, [and] community-based correctional programs and facilities other than jails or prisons, [and] programs for the supervision of persons entering a pretrial diversion program.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 413 was read second time.

Representative T. Smith offered the following amendment to CSHB 413:

Amend CSHB 413 as follows:

(1) On page 2, line 1, between “one” and “county”, insert “probation department in a judicial district with more than one”.

(2) On page 2, line 19, between “the” and “treasury”, insert “county”.

Amend CSHB 413 as follows:

(1) On page 2, line 1, between “one” and “county”, insert “probation department in a judicial district with more than one”.

(2) On page 2, line 19, between “the” and “treasury”, insert “county”.
The amendment was adopted without objection.

CSHB 413, as amended, was passed to engrossment. (A. Smith recorded voting no)

**HB 1372 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment,

**HB 1372**, A bill to be entitled An Act relating to exemption of officers, directors, and employees of certain bank holding companies from registration and licensing under the Texas Securities Act.

The bill was read second time and was passed to engrossment. (C. Smith recorded voting present-not voting)

**HB 1316 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment,

**HB 1316**, A bill to be entitled An Act relating to the notification of certain landowners of agricultural use and open-space appraisal provisions.

The bill was read second time and was passed to engrossment.

**HB 224 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for **HB 224**.

**CSHB 224**

A BILL TO BE ENTITLED
AN ACT
relating to the definition of serious bodily injury for purposes of certain criminal laws.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subdivision (34), Section 1.07(a), Penal Code, is amended to read as follows:

(34) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

SECTION 2. (a) The change in law made by this Act 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 the effective 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 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 224 was read second time and was passed to engrossment.
HB 1208 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 1208, A bill to be entitled An Act relating to offenses involving explosive and chemical dispensing weapons and the forfeiture of certain items seized pursuant to an arrest for a weapons violation.

The bill was read second time.

Representative Danburg offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1208, lines 9 and 10, page 3, by striking lines 9 and 10 and substituting the following:

Art. 18.181. DISPOSITION OF EXPLOSIVE WEAPONS AND CHEMICAL DISPENSING DEVICES. (a) After seizure of an explosive weapon or chemical dispensing device, as these terms are defined in Section

Committee Amendment No. 1 was adopted without objection.

Representative Danburg offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend lines 20-21, Page 2, HB 1208 by:

Strike "a homemade" and substituting therein "an".

And on page 1, line 23, Striking "a homemade" and substituting therein "an".

Committee Amendment No. 2 was adopted without objection.

HB 1208, as amended, was passed to engrossment.

HB 788 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 788.

CSHB 788

A BILL TO BE ENTITLED AN ACT

relating to work credit for determining salary or retirement benefits of a vocational teacher.

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

SECTION 1. Subchapter B, Chapter 16, Texas Education Code, is amended by adding Section 16.057 to read as follows:

Sec. 16.057. VOCATIONAL TEACHERS; CREDIT FOR EXPERIENCE. In determining the placement of a vocational teacher under the Texas Public Education Compensation Plan, a year of previous employment in the vocational field in which the teacher is certified to teach shall be considered equivalent to a year of teaching experience.

SECTION 2. Subchapter E, Chapter 33, Title 110B, Revised Statutes, is amended by adding Section 33.404 to read as follows:

Sec. 33.404. PURCHASE OF CREDIT BY CERTAIN VOCATIONAL TEACHERS. (a) A member employed as a vocational teacher by a public school may purchase equivalent membership service credit under the retirement system for
each year of previous employment used for salary purposes under Section 16.057, Texas Education Code.

(b) For each year of equivalent membership service credit that the member desires to purchase, the member must deposit to his individual account with the retirement system 12 percent of the member's annual rate of compensation during the current year of employment as a teacher in the public schools, plus a fee of six percent of the required contribution, compounded annually, from the date of first eligibility to the date of deposit.

(c) For each year that deposits are made, the member shall be granted one year's membership service credit. Not more than five years' total credit may be purchased under the provisions of this section.

(d) A vocational teacher who desires to purchase credit under this section has a period of three years, once employed as a teacher in a public school, to purchase the credit.

SECTION 3. Section 35.304(a), Title 110B, Revised Statutes, is amended to read as follows:

(a) The retirement system shall deposit in a member's individual account in the member savings account:

(1) the amount of contributions to the retirement system that is deducted from the member's compensation;

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish membership service credit previously waived that is required by Section 33.202(b)(1) of this subtitle;

(5) the portion of a deposit to establish membership service credit for service performed after retirement that is required by Section 33.502(c)(3) or 33.502(c)(5) of this subtitle;

(6) the portion of a deposit to establish military service credit required by Section 33.302(c) of this subtitle;

(7) the portion of a deposit to establish equivalent membership service credit required by Section 33.401(d), 33.402(e)(1), 33.402(e)(2), 33.403(b)(1), [or] 33.403(b)(2), or 33.404(b) of this subtitle; and

(8) interest earned on money in the account as provided by Subsections (b) and (c) of this section and Section 35.310(b)(1) of this subtitle.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

CSHB 788 was read second time and was passed to engrossment.

HB 1701 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment.

HB 1701, A bill to be entitled An Act relating to the use of external professional investment managers in investing certain state funds.

The bill was read second time.

Representative Hammond offered the following amendment to the bill:
Amend HB 1701 on page 1 by striking Section 1 and substituting the following:

SECTION 1. Chapter 15, Texas Education Code, is amended by adding Sections 15.021 and 15.022 to read as follows:

Sec. 15.021. EXTERNAL INVESTMENT MANAGERS. (a) The State Board of Education may contract with private professional investment managers to assist the board in making investments of the permanent school fund.

(b) A private professional investment manager under contract with the State Board of Education must be:

(1) registered under the federal Investment Advisors Act of 1940;
(2) a bank as defined by that Act; or
(3) an insurance company qualified to perform investment services under the laws of more than one state.

Sec. 15.022. CONFLICT OF INTEREST. (a) A member, employee, former member, or former employee of the State Board of Education may not have a direct or indirect interest in gains or profits from the investment of the permanent school fund while a member of or employed by the board and for the two-year period after the date on which membership or employment with the board ends.

(b) A private professional investment manager under contract as provided by Section 15.021 of this code or an employee of that investment manager may not be appointed to serve on the State Board of Education while the investment manager is under contract with that board to assist in making investments of the permanent school fund.

The amendment was adopted without objection.

Representative Hammond offered the following amendment to the bill:

Amend HB 1701 on page 1 by striking Section 2 and substituting the following:

SECTION 2. Chapter 66, Texas Education Code, is amended by adding Sections 66.06 and 66.07 to read as follows:

Sec. 66.06. EXTERNAL INVESTMENT MANAGERS. (a) The board of regents of The University of Texas System may contract with private professional investment managers to assist the board in making investments of the permanent university fund.

(b) A private professional investment manager under contract with the board of regents of The University of Texas System must be:

(1) registered under the federal Investment Advisors Act of 1940;
(2) a bank as defined by that Act; or
(3) an insurance company qualified to perform investment services under the laws of more than one state.

Sec. 66.07. CONFLICT OF INTEREST. (a) A member, employee, former member, or former employee of the board of regents of The University of Texas System may not have a direct or indirect interest in gains or profits from the investment of the permanent university fund while a member of or employed by the board of regents and for the two-year period after the date on which membership or employment with the board of regents ends.

(b) A private professional investment manager under contract as provided by Section 66.06 of this code or an employee of that investment manager may not be appointed to serve on the board of regents of The University of Texas System while the investment manager is under contract with that board to assist in making investments of the permanent university fund.

The amendment was adopted without objection.
Representative Hammond offered the following amendment to the bill:

Amend HB 1701 by striking Section 3 of the bill, inserting new Sections 3 and 4 to read as follows, and renumbering succeeding sections accordingly:

SECTION 3. Section 25.210, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 25.210. INTEREST IN INVESTMENT PROFITS PROHIBITED.
(a) Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than his or her designated compensation and authorized expenses.
(b) Except for an interest in retirement funds as a member of the retirement system, a former trustee or former employee of the board of trustees may not have a direct or indirect interest in gains or profits from the investment of assets of the retirement system made by the board for the two-year period after the date on which membership on or employment with the board of trustees ends.

SECTION 4. Section 25.301, Title 110B, Revised Statutes, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board of trustees may contract with private professional investment managers to assist the board in investing the assets of the retirement system. A private professional investment manager must meet the qualifications prescribed by Section 12.204(b) of this title.
(d) A private professional investment manager under contract as provided by this section or an employee of that investment manager may not be appointed to serve on the board of trustees while the investment manager is under contract with the board to assist in investing the assets of the retirement system.

The amendment was adopted without objection.

Representative Hammond offered the following amendment to the bill:

Amend HB 1701 by striking Section 4 of the bill, inserting new Sections 4 and 5 to read as follows, and renumbering succeeding sections accordingly:

SECTION 4. Section 35.210, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 35.210. INTEREST IN INVESTMENT PROFITS PROHIBITED.
(a) Except for an interest in the retirement assets as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains from investments made with the system's assets and may not receive any compensation for service other than designated salary and authorized expenses.
(b) Except for an interest in the retirement assets as a member of the retirement system, a former trustee or former employee of the board of trustees may not have a direct or indirect interest in gains or profits from the investment of assets of the retirement system made by the board for the two-year period after the date on which membership on or employment with the board of trustees ends.

SECTION 5. Section 35.301, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 35.301. INVESTMENT OF ASSETS. (a) The board of trustees shall invest assets of the retirement system without distinction as to their source. All securities are held collectively for the proportionate benefit of all accounts of the system.
(b) The board of trustees may contract with private professional investment managers to assist the board in investing the assets of the retirement system. A
private professional investment manager must meet the qualifications prescribed by Section 12.204(b) of this title.

(c) A private professional investment manager under contract as provided by this section or an employee of that investment manager may not be appointed to serve on the board of trustees while the investment manager is under contract with the board to assist in investing the assets of the retirement system.

The amendment was adopted without objection.

Representative Hammond offered the following amendment to the bill:

Amend HB 1701 by inserting a new Section 5 to read as follows and renumbering the succeeding sections accordingly:

SECTION 5. Chapter 11, Title 110B, Revised Statutes, is amended by adding Section 11.113 to read as follows:

Sec. 11.113. SERVICE ON OTHER BOARDS. A member or former member of the board may not serve on the board of trustees of any public retirement system and may not participate in or direct the investment of the assets of any public retirement system while a member of the board and for the two-year period after the date on which membership on the board ends.

The amendment was adopted without objection.

Representative Hammond offered the following amendment to the bill:

Amend HB 1701 by striking the caption on lines 2 and 3 and substituting the following:

"relating to the management and investment of certain state funds.".

The amendment was adopted without objection.

A record vote was requested.

HB 1701, as amended, was passed to engrossment by (Record 374): 116 Yeas, 8 Nays, 4 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Cain; Cary; Cavazos; Ceverha; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Craddock; Danburg; Davis; Delce; Denton; Ekenburg; English; Evans, C.; Evans, L.; Fox; Gernez; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Glossbrenner; Grisham; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hefflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Lanev; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Moreno, A.; Patronella; Patterson; Pennington; Peveley; Pierce; Polk; Polumbo; Presnahal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Saunders; Scholecraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Waldrop; Wallace; Whaley; Wieting; Willis; Word; Wright.

Nays — Bush; Finnell; Hackney; Hill, G.; Hinojosa; Olivera; Salinas; Uher.

Present, not voting — Mr. Speaker; Carriker; Moreno, P.; Oliver.

Absent, Excused — Crockett; Eckels; Emmett; Green; Wilson.

Absent — Criss; DeLay; Edwards; Gandy; Geistweidt; Gibson, J.; Gilley; Granoff; Hernandez; Lee, D.; Millsap; Parker; Patrick; Schlueter; Valles; Vowell; Wolens.
MESSAGE FROM THE SENATE

Austin, Texas, May 12, 1983

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

Local and Uncontested Calendar

SB 757 by Mauzy, relating to the appointment, qualifications, compensation and assignment of retired and former district judges.

SB 1075 by Edwards, relating to compensation of directors of the Aquilla-Hackberry Creek Conservation District.

SB 1086 by Caperton, relating to notice concerning exhibits and papers on file with the courts of appeals and to the preservation of records of the courts of appeals.

SB 1168 by Glasgow, relating to private mortgage guaranty insurance issued pursuant to Article 21.50, Insurance Code.

SB 1242 by Henderson, relating to validation of the boundaries of the Forest Cove Municipal Utility District.

SB 1304 by Mauzy and Truan, relating to the election of all or some of the trustees of certain school districts from single member trustee districts.

SB 1307 by Jones, relating to the compensation of the judges of the district courts in Taylor County.

SB 1308 by Blake, relating to the authority of the governor to appoint an agent to sign for the governor or use the governor's signature on certain documents relating to criminal justice.

SB 1314 by Parker, relating to the authority of the Jefferson County Drainage District No. 6.

SB 1322 by Sharp, relating to size and weight limitations for vehicles operated across certain public highways.

SB 1323 by Truan, relating to fees for student centers at the component institutions of the University System of South Texas.

SB 1332 by Edwards, relating to coordinating board approval of junior college construction financed with funds from a source other than the state and to use of student fees for junior college construction.

SB 1333 by Edwards, relating to courses held by a community college in facilities of a school district located outside the community college district.

SB 1345 by Parmer, relating to calculation of an ad valorem tax rate when an error in the preceding year caused the loss of a substantial amount of tax revenue.

SB 1352 by Parker, relating to the appointment, duties and staff of court administrators.

SB 1385 by Parker, relating to the creation of the South Cheek Sewage District.

SB 1387 by Parker, relating to the creation of the South LaBelle Sewage District.

SCR 104 by Blake, creating a special committee to study intercity communication needs of state government.

Respectfully,

Betty King
Secretary of the Senate
HB 2160 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2160.

CSHB 2160

A BILL TO BE ENTITLED
AN ACT

relating to the pay grade of superintendents of certain school districts.

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

SECTION 1. Section 16.056(d), Texas Education Code, is amended to read as follows:

(d) The positions, pay grades, titles, and except as otherwise authorized by law, the number of annual contract months for each position under the Texas Public Education Compensation Plan are as follows:

<table>
<thead>
<tr>
<th>Pay Grade</th>
<th>Months Paid</th>
<th>Class Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10</td>
<td>Educational Aide I</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
<td>Educational Secretary I</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
<td>Educational Aide II</td>
</tr>
<tr>
<td>3</td>
<td>10</td>
<td>Educational Secretary II</td>
</tr>
<tr>
<td>3</td>
<td>10</td>
<td>Educational Aide III</td>
</tr>
<tr>
<td>4</td>
<td>10</td>
<td>Educational Secretary III</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>Teacher Trainee I</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>Teacher Trainee II</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>Certified Nondegree Teacher</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Nurse, R.N. and/or Bachelor's Degree</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Special Education Related Service Personnel (other than Occupational or Physical Therapist), Bachelor's Degree</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Teacher, Bachelor's Degree</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Vocational Teacher,</td>
</tr>
<tr>
<td>11</td>
<td>12</td>
<td>Bachelor's Degree and/or Certified in Field</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Librarian I, Bachelor's Degree</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
<td>Visiting Teacher I, Psychological Associate, Bachelor's Degree</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Special Education Related Service Personnel (other than Occupational or Physical Therapist), Master's Degree</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Teacher, Master's Degree</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Vocational Teacher,</td>
</tr>
<tr>
<td>11</td>
<td>12</td>
<td>Master's Degree</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Librarian II, Master's Degree</td>
</tr>
<tr>
<td>#</td>
<td>Level</td>
<td>Description</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Physician, M.D.</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>Teacher, Bachelor of Laws or Doctor of Jurisprudence Degree</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>Teacher, Doctor's Degree</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>Special Duty Teacher, Master's Degree</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Occupational Therapist</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Physical Therapist</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Educational Diagnostician</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Visiting Teacher II, Master's Degree</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Counselor I, Psychologist</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Supervisor I</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Part-time Principal—11 or fewer teachers on campus</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>Instructional/Administrative Officer I</td>
</tr>
<tr>
<td>11</td>
<td>10</td>
<td>Assistant Principal—20 or more teachers on campus</td>
</tr>
<tr>
<td>11</td>
<td>10</td>
<td>Instructional/Administrative Officer II</td>
</tr>
<tr>
<td>12</td>
<td>11</td>
<td>Principal—19 or fewer teachers on campus</td>
</tr>
<tr>
<td>12</td>
<td>10</td>
<td>Instructional/Administrative Officer III</td>
</tr>
<tr>
<td>13</td>
<td>11</td>
<td>Principal—20-49 teachers on campus</td>
</tr>
<tr>
<td>13</td>
<td>11</td>
<td>Instructional/Administrative Officer IV</td>
</tr>
<tr>
<td>14</td>
<td>11</td>
<td>Principal—50-99 teachers on campus</td>
</tr>
<tr>
<td>14</td>
<td>12</td>
<td>Principal—100 or more teachers on campus</td>
</tr>
<tr>
<td>14</td>
<td>12</td>
<td>Instructional/Administrative Officer V</td>
</tr>
<tr>
<td>14</td>
<td>12</td>
<td>Superintendent—District with 400 or less ADA not offering kindergarten through grade 12</td>
</tr>
<tr>
<td>15</td>
<td>12</td>
<td>Instructional/Administrative Officer VI</td>
</tr>
<tr>
<td>15</td>
<td>12</td>
<td>Superintendent—District with 401-3,000 ADA</td>
</tr>
<tr>
<td>16</td>
<td>12</td>
<td>Instructional/Administrative Officer VII</td>
</tr>
<tr>
<td>16</td>
<td>12</td>
<td>Superintendent—District with 3,001-12,500 ADA</td>
</tr>
<tr>
<td>17</td>
<td>12</td>
<td>Instructional/Administrative Officer VIII</td>
</tr>
<tr>
<td>17</td>
<td>12</td>
<td>Superintendent—District with 12,501-50,000 ADA</td>
</tr>
</tbody>
</table>
SECTION 2. This Act takes effect beginning with the 1983-1984 school year.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 2160 was read second time and was passed to engrossment. (Heflin and Fox recorded voting no)

HB 576 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 576, A bill to be entitled An Act relating to the period for which a student may be suspended from school.

The bill was read second time.

Representative Glossbrenner offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 576, page 1, line 9 by deleting the word "year" and adding the following, "term of school".

Representative L. Hall offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 as follows:

Amend Subsection (a) of SECTION 1 of HB 576 by deleting the subsection in its entirety and substituting in lieu thereof the following:

“(a) The board of trustees of any school district may suspend from the privileges of the schools any pupil found guilty of incorrigible conduct, but such suspension shall not extend beyond the end of the next following semester [current term] of the school.”

The amendment was adopted without objection.

Committee Amendment No. 1, as amended, was adopted without objection.

HB 576, as amended, was passed to engrossment.

HB 725 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 725, A bill to be entitled An Act relating to certain defenses to charges of failure to maintain financial responsibility.

The bill was read second time and was passed to engrossment.

HB 1378 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,
HB 1378, A bill to be entitled An Act relating to the construction of community-based facilities for the purpose of providing mental health and mental retardation services.

The bill was read second time and was passed to engrossment. (Bush and Toomey recorded voting no)

**HB 1291 ON SECOND READING**

The chair laid before the house on its second reading and passage to engrossment,

**HB 1291, A bill to be entitled An Act relating to the interception of wire or oral communications.**

The bill was read second time.

Representative Waldrop offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 1**

Amend HB 1291 on page 3, line 27, by striking “This article” and substituting “Article 18.20 of this code”.

Committee Amendment No. 1 was adopted without objection.

(Speaker in the chair)

Representative Patronella offered the following amendment to the bill:

Amend HB 1291 as follows:

(1) Insert new Sections 2 and 3 to read as follows:

SECTION 2. Section 16.02(e), Penal Code, is amended to read as follows:

(e) It is an affirmative defense to the application of Subsection (d) of this section that the manufacture, assembly, possession, sale, sending, or carrying of an electronic, mechanical, or other device that is designed primarily for the purpose of nonconsensual interception of wire or oral communication is by:

1) a communication common carrier or an officer, agent, or employee of or a person under contract with a communication common carrier acting in the normal course of the communication carrier's business; [or]

2) an officer, agent, or employee of a person under contract with, bidding on contracts with, or doing business with the United States or this state acting in the normal course of the activities of the United States or this state; [or]

3) a law enforcement agency that has an established unit specifically designated to respond to and deal with life-threatening situations.

SECTION 3. Section 16.02, Penal Code, is amended by adding Subsection (i) to read as follows:

(i) For purposes of this section:

1) An immediate life-threatening situation exists when human life is directly threatened in either a hostage or barricade situation.

2) “Member of a law enforcement unit specially trained to respond to and deal with life-threatening situations” means a peace officer who has received a minimum of 40 hours a year training in hostage and barricade suspect situations. This training must be evidenced by the submission of appropriate documentation to the Texas Commission on Law Enforcement Officer Standards and Education.

(2) Renumber current Sections 2 and 3 as Sections 4 and 5.

The amendment was adopted without objection.

HB 1291, as amended, was passed to engrossment. (Bush recorded voting no)
HB 1269 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment.

HB 1269, A bill to be entitled An Act relating to the maximum population for a county election precinct in which voting machines or electronic voting systems are used.

The bill was read second time and was passed to engrossment. (Gandy recorded voting no)

HB 1444 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1444.

CSHB 1444

A BILL TO BE ENTITLED

AN ACT

relating to the assignment of judges by the presiding judges of administrative judicial districts.

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

SECTION 1. Section 5a, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5a. (a) Subject to Section 5d of this Act, the following judges may be assigned to hold district court by the presiding judge of the administrative judicial district in which the assigned judge resides:

1. A [Retired] district judge who is a retiree under Subtitle E, Title 110B, Revised Statutes [judges, as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended], who has [have] consented to be subject to assignment[.]

2. A [all] regular district judge [judges] in this state[;] and

3. A [all] former district judge [judges] who was [were] elected at a general election or appointed by the governor[;] who has [have] not been defeated for reelection[;] who has [have] not been removed from office by impeachment, the Supreme Court, the governor upon address of the legislature, the State Commission on Judicial Conduct [Judicial Qualifications Commission], or by the legislature's abolishment of the judge's court[;] who is [are] not more than 70 years of age[;] and who certifies [certifies] to the presiding judge a willingness to serve and to comply with the same prohibitions relating to the practice of law that are imposed on a retired judge by Section 44.005, Title 110B, Revised Statutes [7, Article 6228(b) of the Revised Civil Statutes of Texas, 1925, as amended or hereafter amended, may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides];

(b) The [and while so] assigned judge has[. shall have] all the powers of the regular [a] judge of the court to which he is assigned [thereof].

(c) When such district judge is so assigned by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the duty of such judge so assigned or reassigned to serve in such court or administrative district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declaring
such duty for good cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

(d) The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the difference between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge. On certification of the presiding judge of the administrative judicial district that a former district judge has rendered services under the provisions of this Act, the former district judge shall be paid, out of county funds and out of money appropriated by the legislature for such purpose, for services actually performed, the same amount of compensation, salary, and expenses that the regular judge is entitled to receive from the county and from the state for such services.

SECTION 2. Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon’s Texas Civil Statutes), is amended by adding Section 5d to read as follows:

Sec. 5d. (a) At such time as a judge is assigned under the provisions of this Act, the presiding judge shall give notice of such assignment to each attorney representing any party to any case which is to be heard, in whole or in part, before such assigned judge.

(b) At any time prior to the beginning of the first hearing or trial over which such assigned judge is scheduled to preside in any particular cause, any party to the cause may file an objection to the particular judge assigned under the provisions of this Act. Such objection may not be filed after the beginning of the first pre-trial hearing or trial presided over by such assigned judge in such case, and no party may ever file more than one such objection in any case.

(c) Upon the filing of an objection authorized under (b) hereof, the assigned judge against whom the objection is filed is disqualified to hear the case, either in whole or in part.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 1444 was read second time and was passed to engrossment.

SB 612 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wright submitted the conference committee report on SB 612.

Representative Wright moved to suspend all necessary rules and to adopt the conference committee report on SB 612.

A record vote was requested.

The motion prevailed by (Record 375): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aglich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carrker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick;
May 12, 1983  
HOUSE JOURNAL 2101  

Danburg; Davis; Delco; Denton; Eikenburg; English; Evans, C.; Evans, L.;  
Finnell; Fox; Gamariz; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt;  
Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Hackney; Haley;  
Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa;  
Hollowell; Horn; Hudson, D.; Hudson, S.; Hurry; Jackson; Jones; Keller; Kemp;  
Khoury; Kubiak; Kuempel; Lacey; Lee, D.; Lee, E. F.; Leonard; McKenna;  
McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Millsap; Moreno, A.;  
Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto;  
Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd;  
Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Sheu; Short; Simpson;  
Smith, A.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.;  
Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Wallace;  
Watson; Whaley; Wieting; Willis; Wolens; Word; Wright.

Present, not voting — Mr. Speaker(C).
Absent. Excused — Crockett; Eckels; Emmett; Wilson.
Absent — Criss; Edwards; Grisham; Luna; Messer; Patrick; Smith, C.

HOUSE BILLS ON FIRST READING

The following house bills were today laid before the house, read first time and referred to committee:

By Rangel:
HB 2440, A bill to be entitled An Act relating to the creation of a juvenile board in Starr County.
To Committee on County Affairs.

By Hanna:
HB 2441, A bill to be entitled An Act relating to establishment of a juvenile board in Throckmorton County.
To Committee on County Affairs.

By W. Martinez:
HB 2443, A bill to be entitled An Act relating to the establishment of the Bexar County Child Support Services Department and to the collection of certain fees.
To Committee on County Affairs.

RESOLUTIONS REFERRED TO COMMITTEE

The following resolutions were laid before the house and referred to committee:

By Eckels:
HR 382, Commending A. J. "Mac" McKinney.
To Committee on Rules and Resolutions.

By Eckels:
HR 383, Commending Milton Winebrenner.
To Committee on Rules and Resolutions.

SCR 111 - ADOPTED
(Keller - House Sponsor)

Representative Keller moved that all necessary rules be suspended to take up and consider at this time, SCR 111.

The motion prevailed without objection.

The speaker laid before the house the following resolution:
SCR 111

WHEREAS, Senate Bill Number 623 has passed the House of Representatives with amendment and the Senate has concurred in the House amendment; and

WHEREAS, Senate Bill Number 623 is now in the Engrossing and Enrolling Room of the Senate; and

WHEREAS, Certain language was inadvertently omitted in the House amendment; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the Enrolling Clerk of the Senate be instructed to insert “and line 21” in the House amendment as follows:

“Amend S.B. 623, Section 15, chapter 340 (Article 9I2o.15, V.T.C.S.) on page 7, line 11 and line 21 by adding the following language after the words “September 1, 1975,”: “and until September 1, 1983,”

The resolution was adopted without objection.

HB 410 WITH SENATE AMENDMENT

Representative Denton called up with senate amendment for consideration at this time.

HB 410, A bill to be entitled An Act relating to the purchase of firearms from the state by retiring state peace officers or survivors of state peace officers.

Representative Denton moved to suspend all necessary rules and concur in the senate amendment to HB 410.

A record vote was requested.

The motion prevailed by (Record 376): 133 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Agnich: Armbrister: Arnold: Barrientos: Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha: Clark: Clemens: Colbert; Collazo; Connelly; Coody; Craddick; Danburg; Davis; DeLay; Delco; Denton; Edwards; Ekenburg; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistwiedt; Gibson, B.; Gibson, J.; Gilley; Granoff; Green; Hackney; Haley; Hall, L.; Hall, T.; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hibbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Kellor; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard: Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Pressnat; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schmoller; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wolens; Word.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crockett; Eckels; Emmett; Wilson.

Absent — Bush; Criss; English; Fox; Glossbrenner; Grisham; Hall, W.; Hammond; Hinojosa; Patrick; Valles; Wright.
HB 410 - TEXT OF SENATE AMENDMENT

CSHB 410, A bill to be entitled An Act relating to the purchase of firearms from the state by retiring state peace officers.

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

SECTION 1. (a) A peace officer commissioned by an agency of the state who is honorably retired from his commission by the state may purchase for an amount set by the agency, not to exceed fair market value, one firearm issued to him by the agency if the firearm is not listed as a prohibited weapon under Section 46.06(a), Penal Code. Except as provided by Subsection (b) of this section, the purchase must be made before the second anniversary of the date of the officer's retirement.

(b) If the agency employing the officer is unable to immediately replace a firearm purchased from the agency's stock under this section, the agency may delay the sale until the agency can replace the firearm.

SECTION 2. If a peace officer commissioned by an agency of the state dies while commissioned, whether or not the death occurred in the discharge of his official duties as a peace officer, the following classes of persons, in descending order of precedence, may purchase a firearm issued to the officer under the same conditions imposed on a purchase by a retiring officer by Section 1 of this Act:

1. the surviving spouse of the officer;
2. any children of the officer; or
3. the parents of the officer.

SECTION 3. (a) This Act applies to the purchase of a firearm included in the agency's inventory on or after the effective date of this Act by a peace officer who died or honorably resigned his commission on or after September 1, 1979.

(b) If the final date on which a peace officer or a survivor of a peace officer would otherwise be eligible to purchase a firearm under this Act occurs before the 181st day after the effective date of this Act, the final date on which the firearm may be purchased is extended to the later date.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 102 WITH SENATE AMENDMENTS

Representative A. Hill called up with senate amendments for consideration at this time.

HB 102, A bill to be entitled An Act relating to inspections of convalescent homes, nursing homes, and other related institutions.

Representative A. Hill moved to suspend all necessary rules and concur in the senate amendments to HB 102.

The motion prevailed.

HB 102 - TEXT OF SENATE AMENDMENTS

SENATE AMENDMENT NO. 1

Amend HB 102 by striking the word "or" on line 13 of page 2 thereof, and adding, on line 14 of page 2, the words "the Texas Department on Aging Certified Long Term Care Ombudsman," after the words "Federal Employees."

SENATE AMENDMENT NO. 2

Amend HB 102 by striking (i) and substituting the following:
Grading each home or institution so as to recognize those homes or institutions that go beyond the minimum level of services and personnel, as established by the agency and a superior [such attained] grade shall be prominently displayed for public view and as incentive to attain the superior grade, allow each home or institution to advertise such grade. The agency shall not award a superior grade to an institution if the institution has violated state or federal laws or regulations during a period of 12 months prior to the grading inspection. The agency shall cancel a superior grade granted to an institution if (1) the institution fails to meet the criteria established for a superior grade; or (2) the institution has violated state or federal laws or regulations. For the purposes of this subsection, a “violation of state or federal laws or regulations” means a violation of a law or regulation which affects the health, safety, or welfare of the residents of an institution; resident funds; the confidentiality of records of a resident; the financial practices of an institution; and the control of medication within an institution. If a superior grade is cancelled, the institution is prohibited from advertising the superior grade. This subsection does not apply to an institution that provides maternity care.

HB 962 WITH SENATE AMENDMENT

Representative Schlueter called up with senate amendment for consideration at this time.

HB 962, A bill to be entitled An Act relating to taxation of sample packages of cigarettes.

Representative Schlueter moved to suspend all necessary rules and concur in the senate amendment to HB 962.

A record vote was requested.

The motion prevailed by (Record 377): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Cervera; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Craddock; Danburg; Davis; DeLay; Delco; Denton; Edwards; Eikenburg; English; Evans, L.; Finnel; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweid; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hefflin; Hernandez; Hightower; Hibbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hurry; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; McKenna; Madia; Martinez, R.; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Peveto; Pierce; Polk; Polumbo; Ponsal; Price; Ragsdale; Rangel; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wolens; Word; Wright.

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

Absent, Excused — Crockett; Eckels; Emmett; Wilson.

Absent — Berlanga; Criss; Evans, C.; Luna; McWilliams; Mankins; Messer; Patrick; Pennington; Robinson; Valles.
HB 962 - TEXT OF SENATE AMENDMENT

Amend HB 962 by inserting the words "or attached" on line 10 after the word "printed".

HB 618 WITH SENATE AMENDMENT

Representative Rudd called up with senate amendment for consideration at this time,

HB 618, A bill to be entitled An Act relating to the duties of the county attorney of Andrews County and the district attorney of the 109th Judicial District.

Representative Rudd moved to suspend all necessary rules and concur in the senate amendment to HB 618.

The motion prevailed.

HB 618 - TEXT OF SENATE AMENDMENT

CSHB 618, A bill to be entitled An Act relating to the duties of the county attorney of Andrews County and the district attorney of the 109th Judicial District.

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

SECTION 1. The county attorney represents the state in all matters before the district court in Andrews County.

SECTION 2. CONFORMING AMENDMENT. Section 2, Professional Prosecutors Act (Article 332b-4, Vernon’s Texas Civil Statutes), is amended to read as follows:

Section 2. DEFINITION. In this Act, “district attorney” means each of the district attorneys for the 2nd, 3rd, 9th, 12th, 21st, 26th, 30th, 32nd, 34th, 36th, 38th, 39th, 43rd, 47th, 51st, 52nd, 63rd, 64th, 66th, 70th, 75th, 76th, 81st, 85th, 97th, 105th, 106th, 118th, 119th, 145th, 155th, 159th, 173rd, 196th, 198th, 216th, 220th, 235th, and 271st Judicial Districts; the criminal district attorney in each of the counties of Bastrop, Bee, Bexar, Brazoria, Caldwell, Eastland, Fort Bend, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Randall, Rockwall, Smith, Tarrant, Taylor, Upshur, Van Zandt, Walker, and Wood; the county attorney performing the duties of the district attorney in each of the counties of Andrews, Cameron, Castro, Falls, Fannin, Freestone, Grayson, Limestone, Morris, Ochiltree, Red River, Rusk, and Willacy; and the county attorney or criminal district attorney, as the case may be, of Denton County.

SECTION 3. The district attorney of the 109th Judicial District shall be elected from Crane and Winkler counties and shall represent the state only in those counties.

SECTION 4. This Act takes effect January 1, 1984.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

SB 294 - REQUEST OF SENATE GRANTED

On motion of Representative C. Evans, the house granted the request of the senate for the appointment of a conference committee on SB 294.

SB 294 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on SB 294: C. Evans, chair; Coody, Wallace, Arnold, and Messer.
HOUSE BILL ON FIRST READING

The following house bill was today laid before the house, read first time and referred to committee:

By Craddick:
HB 2444, A bill to be entitled An Act relating to use of a jury wheel in the municipal court of record in Midland.
To Committee on State Affairs.

CORRECTION IN REFERRAL

SB 899, relating to the exemption of certain agencies of the Texas A&M System from the provisions of the Texas Sunset Act was inadvertently referred to the Committee on Higher Education. HB 1921, relating to the same subject matter, was referred to the Committee on State Affairs. The chair, after consultation with author and chairmen of the respective committees, now corrects the referral of SB 899 to the Committee on State Affairs.

HB 267 WITH SENATE AMENDMENTS

Representative Green called up with senate amendments for consideration at this time;

HB 267, A bill to be entitled An Act relating to compliance with a will admitted to probate as a muniment of title.
Representative Green moved to suspend all necessary rules and concur in the senate amendments to HB 267.
The motion prevailed.

HB 267 - TEXT OF SENATE AMENDMENTS

SENATE AMENDMENT NO. 1

Amend HB 267 by striking Section 89, page 2, lines 11 through 16 and substituting the following:
Unless waived by the court, before the 181st day, or such later day as may be extended by the court, after the date a will is admitted to probate as a muniment of title the applicant for probate of the will shall file with the clerk of the court a sworn affidavit stating specifically the terms of the will that have been fulfilled and the terms of the will that have been unfulfilled. Failure of the applicant for probate of the will to file such affidavit shall not otherwise affect title to property passing under the terms of the will.

SENATE AMENDMENT NO. 2

Amend the caption to conform to the body of the bill.

HB 2440 - RULES SUSPENDED

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider HB 2440.
The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:
Judiciary, on recess today, Old Supreme Court room, to consider SB 997, SB 669, SB 872, SB 803, HCR 183, HB 358, HB 1644, HB 1455.
State Affairs, on recess today, Desk 97, to consider subcommittee reports.

Urban Affairs, Subcommittee on HB 2383, on recess today, Desk 8, to consider HB 2383.

Urban Affairs, Subcommittee on HB 1306, on recess today, Desk 49, to consider HB 1306.

Business and Commerce, Subcommittee on Workers' Compensation, on recess today, Desk 90, to consider HB 2081.

Liquor Regulation, Subcommittee on HB 1889, on recess today, speakers committee room, to consider HB 1889.

State Affairs, Subcommittee on HB 1295, on recess today, Desk 7, to consider HB 1295.

Natural Resources, Subcommittees on HB 694 and SB 378, on recess today, Room 143-C, to consider HB 694 and SB 378.

Urban Affairs, Subcommittee on HB 1154, 7:45 a.m. tomorrow, speakers committee room, to consider HB 1154.

Human Services, on recess today, Desk 50, to consider SCR 82, SCR 83, SCR 84, SCR 85, SCR 86, SCR 87.

Human Services, on recess today, Desk 50.

County Affairs, on recess today, Desk 100, to consider HB 1296.

Insurance, 5 p.m. today, Room E, Reagan Building.

RECESS

Representative English moved that the house recess until 9 a.m. tomorrow in memory of those who died in the tornado in Waco, May 11, 1953.

The motion prevailed without objection.

The house accordingly, at 3:16 p.m., recessed until 9 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

Appropriations - HB 1063, HB 1424, HB 2181

Business and Commerce - HB 1407, HB 1768, HB 1959, HB 2019, HB 2233, HJR 80, HR 125, SB 239, SB 487, SB 559, SB 718

County Affairs - HB 1578, HB 1918, HB 2354, HB 2390, SB 471, SB 732

Criminal Jurisprudence - HB 172, HB 420, HB 498, HB 1486, HB 1605, HB 1643, HJR 95, HJR 63, SB 838, SB 1104, SB 1137, SCR 89

Elections - SB 1228

Energy - SB 518

Higher Education - HR 278, SB 156
House Administration - SB 1245
Human Services - HB 2437
Insurance - HB 1863, HCR 180, HCR 213, SB 331
Judicial Affairs - HB 1080, HB 1183, HB 1468, HB 1470, HB 1927,
HB 2129, HB 2229, HB 2310, HB 2341, HB 2385, HCR 86, HCR 119,
HCR 120, HCR 166, HCR 185, HCR 221, HCR 233, SCR 27, SB 701,
SB 856, SB 1044, SB 1282, SB 1291, SCR 77
Judiciary - HB 337, HB 1119, HB 1370, HB 1508, SB 882
Law Enforcement - SB 1152
Natural Resources - HB 2276, HB 2391, HB 2426, SB 1358
Public Education - HB 739, HB 784, HB 973, SB 383, SB 809, SB 1096,
SB 1274, SCR 68
Public Health - HB 1835, HB 1945, SB 705, SB 801, SB 1019
Transportation - HB 2157, SB 148, SB 843, SB 969
Urban Affairs - HB 903, HB 1773, HB 2128, SB 960
Ways and Means - HB 1546, HB 2436, HJR 88, SB 123, SB 738, SB 975,
SB 977, SB 1143

ENROLLED
May 12 - HCR 8, HB 15, HB 103, HB 480, HB 532, HB 672, HB 680,
HB 719, HB 722, HB 853, HB 1111, HB 1229, HB 1427, HB 1440, HB 1441,
HB 1487, HB 1775, HB 1828, HB 1861, HB 1958, HB 2018, HB 102,
HB 410, HB 962, HB 618, HB 267

ENGROSSED
May 11 - HB 33, HB 58, HB 128, HB 160, HB 287, HB 299, HB 444,
HB 590, HB 645, HB 733, HB 755, HB 773, HB 790, HB 796, HB 805,
HB 831, HB 1029, HB 1112, HB 1277, HB 1480, HB 1538, HB 1611,
HB 1794, HB 1819, HB 1985, HB 2061, HB 2083, HB 2297, HB 2333,
HB 2334, HJR 70, HJR 86, HJR 73
May 12 - HB 158, HB 411, HB 570, HB 594, HB 828, HB 888, HB 896,
HB 1038, HB 1157, HB 1178, HB 1180, HB 1310, HB 1401, HB 1428,
HB 1511, HB 1517, HB 1518, HB 1536, HB 1550, HB 1555, HB 1580,
HB 1669, HB 1792, HB 1956, HB 1964, HB 2008, HB 2045, HB 2102,
HB 2118, HB 2153, HB 2224, HB 2352, HB 2437, HJR 72

COAUTHORS AUTHORIZED
The following members were granted permission by the authors to sign bills
and a resolution as coauthors:
HB 150 - Toomey
HB 441 - Barrientos
HB 632 - Sutton
HB 979 - Hackney
HB 2436 - Khoury
HCR 218 - Hackney

RECOMMENDATION OF THE TEXAS WATER COMMISSION
FILED WITH SPEAKER

The following recommendation of the Texas Water Commission was filed with the speaker:

May 11 - HB 2351