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 425).

Present — Mr. Speaker; Agnihotri; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Borner; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Cervenka; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; DeLay; DeLisi; Denton; Eckels; Edwards; Eikenburg; Emmett; Evans, C.; Evans, L.; Finnel; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweit; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hibbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Maldonado; 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; Rudd; Russell; Salinas; Sanders; 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 — Green.

The invocation was offered by Father Al Doga, pastor, Prince of Peace Catholic Community, Houston, Texas, as follows:

Let us pray:

In the name of the Father and of the Son and of the Holy Spirit. Almighty God, as we pause at this moment to invoke your blessing, may we realize that the career of the great Lone Star State cannot be measured by that of any other people of whom history gives account. All faiths, civilizations, and the arts given to a state present greatness to which the ancient empires at the height of their glory cannot be compared. Bless us, Lord, with appreciation of our state, the enjoyment of social conditions and freedom nowhere known to such an extent. Grant, Lord, that we may never undervalue these treasures, and in particular that free deliberation in this House of Representatives of the State of Texas. To these representatives of ours, O Lord, give courage never to be swayed by the blandishments or the thunders of the galleries. To that end we acknowledge your divine power controlling the destinies of peoples, and your goodness we adore. Amen.

HR 429 - ADOPTED

The speaker laid before the house the following resolution:

By Speaker Lewis:

HR 429, Wishing Walter Fisher a happy birthday.
The resolution was read and was adopted without objection.

On motion of Representative Wilson, the names of all the members of the house were added to HR 429 as signers thereof.

**HCR 254 - ADOPTED**

Representative Denton moved that all necessary rules be suspended to take up and consider at this time, HCR 254.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Denton:

**HCR 254**, Congratulating the Salvation Army.

The resolution was adopted without objection.

On motion of Representative Gandy, the names of all the members of the house were added to HCR 254 as signers thereof.

**BILL AND RESOLUTIONS SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bill and resolutions:

**HB 2437, HCR 215, HCR 245, HCR 246**

*Green now present*

**SB 766 - RECOMMitted TO COMMITTEE**

Representative Edwards moved to recommit SB 766 from the Committee on Calendars to the Committee on Transportation.

The motion prevailed without objection.

**HB 2232 ON SECOND READING**

The speaker laid before the house, as a special order of business, on its second reading and passage to engrossment,

**HB 2232**, A bill to be entitled An Act relating to certificates of public necessity and convenience for utilities providing service in certain municipalities in which municipally-owned utilities provide utility service.

The bill was read second time.

Representative A. Hill offered the following amendment to the bill:

Amend HB 2232 on page 1 by striking lines 9-18 and substituting the following:

(d) Where a municipal corporation offers retail electric utility service in a city of more than 135,000 population located in a county of more than 1,500,000 population according to the last federal decennial census, the commission shall singly certificate areas within the corporate limits of such municipality where more than one electric utility provides electric utility service within such corporate limits. In singly certificating such areas, the commission shall preserve the respective electric utilities' rights to serve the customers such electric utilities are serving on the effective date hereof. Provided, however, the foregoing shall not apply to customers served, at least partially, by a nominal 69,000 volts system, who have given notice of termination to the utility servicing that customer prior to the effective date of this subsection.
The amendment was adopted without objection.

**HB 2232**, as amended, was passed to engrossment.

**HB 2232 ON THIRD READING**

Representative A. Hill moved that the constitutional rule requiring bills to be read on three several days be suspended and that **HB 2232** be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 426): 132 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Cerverha; Clark; Colbert; Connelly; Coody; Craddock; Criss; Crockett; Davis; DeLay; Delco; Denton; Eckels; Edwards; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Kemp; Khoury; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madia; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalsi; Stiles; Sutton; Tejeda; Toomey; Tow; Turner; Uber; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays — Danburg; Salinas; Thompson, G.

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

Absent — Agnich; Berlanga; Clemons; Collazo; Eikenburg; Emmett; Hall, T.; Horn; Keller; Parker; Shea; Thompson, S.; Valles.

The speaker then laid **HB 2232** 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 427): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Cerverha; Clark; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; 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; Green; Grisham; Hackney; Haley; Hall, L.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madia; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce;
ADDRESS BY ADMIRAL BOBBY INMAN

Pursuant to HR 421, the Honorable Mark White, Governor of the State of Texas, and party were announced at the door of the house and were admitted and escorted to the speaker’s rostrum.

Speaker Lewis introduced the Governor of Texas, the Honorable Mark White, to the house.

Governor White recognized platform guests and introduced Admiral Bobby Inman to the house.

Admiral Inman addressed the house, speaking as follows:

Mr. Speaker, Ladies and Gentlemen of the house, when I was a government student at The University of Texas in Austin, I used to get assigned to come sit in the balcony and watch this body at work. I think you get order a little faster than I used to remember it occurring in those days, Mr. Speaker. I also think they look a little younger than I remember from the late 40’s. In those days, I never had any idea that I might have the honor and privilege to stand before you and certainly no conception that I would be here to talk briefly about leadership for this country, and the great opportunities that lie out ahead of us.

This country is going to be engaged in very intense economic competition, at least in these two decades that my crystal ball will let me look ahead of us. That competition is going to be for raw materials, for natural resources, and for markets. Much of that competition is going to take place within the countries we know as the Western Alliance—our friends.

Twenty years ago, there was no major segment of U.S. industry that had more than 10 percent impact on international trade. There are now very large sectors that have at least 25 percent of their business caught up in international trade. And there are some that are already as high as 50. And that trend is going to accelerate in these next 20 years in which you and I are going to play some key roles.

Trying to keep together alliances in that process is going to be a very critical feature. But it is going to be terribly important to this country and its national security to keep those alliances together. I’m not coming today to go through my usual “the Russians are coming, the Russians are coming” speech. I’d spend an hour talking to you about my concerns and worries. But it is a fact of the 1980’s that the Soviets have now built a larger, conventional, military capability, capable of being picked up and being moved halfway around the world in very short time spans. And we have ever contemplated the prospect that we might have to see. The old Bolsheviks that have been in charge for 20 years have in fact been pretty cautious about using that power. They’ve used Cuban surrogates where they saw an opportunity. But they’ve not moved where there might be a direct conflict with the U.S. and its closest allies. But we’re going to see a complete leadership change in the Soviet Union in the next 10 years. And we know far too little about how they’re going to react. We may be lucky that they’re cautious bureaucrats who will be afraid of losing a privileged position. But we will run as a country at least an equal risk that they will be arrogant about the use of that power, and particularly because they
will not be able to be part of that economic competition. When they see opportunities, therefore, the potential for using military force will be very real. The degree to which this country can provide leadership which keeps that competition healthy, alert, viable, and says we keep the alliances together, runs the greatest risk of keeping this country at peace. But we can't do that job, if we do business as usual.

In the 40's and 50's, we invested heavily as a country in basic research. And then in the 1960's, we began asking, "Is it cost-effective?" The main funnel for investment in research that flowed on to the civilian sector was the Defense Department. And the first thing we gave up in the cost-effective question was that investment in basic research and graduate education. And it is the direct result of that that we find ourselves having to run to catch up with competition from abroad, because that competition from abroad organized 10 years ago to begin focusing on market areas and pulling together research and development, funded largely by local governments: the Japanese, the French, the Germans, even now the British, aiming to take a larger share of the international marketplace.

Twelve companies eventually decided to put behind them the standard look at business culture in this country, to pool research and development, knowing they would go to the marketplace in competition with one another, but as the surest way to make sure this country stayed preeminent at the international marketplace. The first major decision for this first-of-a-kind was saying where can we in this country find the support that will ensure, not only success for MCC, but leadership for the country in this reindustrialization of the U.S. for all the wonderful opportunities of high technology.

We listened to presentations from 27 states, 57 locales. I would have to acknowledge to this body as I did to the press earlier, that the single best presentation was from Mayor Cisneros of San Antonio. But he didn't have a great university in his immediate suburbs. So we came as close to that effort as we could with Austin. But the state organized an effort very much modeled on his first presentation, and it was the leadership from the governor, from the other government officials, from the academic sector, but particularly from the private sector, that encouraged us that 1983 was the time to come to Texas, and that Texas was prepared to support leadership for the country in making these enterprises work.

You're going to be reading about acceleration of investments on the academic side to take the university systems to world-class status in computer science and electrical engineering, achievable in this decade. But I would have to be candid with this group to say that, as I now go to the hard job of persuading scientists all over this country that they should come to Texas to join this great endeavor, we've got a job ahead of us. We're going to have to persuade them that it's not the provincial rural place that's advertised by the ones who didn't want to see us make this decision. There're going to be a lot of very bright people who will make their homes here and help make this state prosper even more for a long time to come. But they're also going to be concerned about the opportunities for their children and the commitment to excellence. Commitment to leadership from the state is going to have to be apparent in everything from kindergarten education all the way up, and in sustaining a business climate that made this, in 1983, the most attractive place in the country to come.

I look forward to working with you. I know the talent that I'm going to bring to the state will ultimately be tremendously excited to be amongst you. And we'll be watching you and looking for leadership from you to ensure that Texas does, indeed, assume a preeminent position in this country in reindustrialization with this revolution in high technology and that we are indeed best, if not biggest.

Thank you very much.
REMARKS ORDERED PRINTED

Representative Green moved to print the remarks made by Admiral Inman in the house journal.

The motion prevailed without objection.

HOUSE AT EASE

At 10:53 a.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 10:55 a.m.

BILLS SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills:

SB 109, SB 295, SB 387, SB 405, SB 436, SB 471, SB 612, SB 973, SB 1269

HB 150 - POSTPONED

Representative G. Thompson moved that consideration of HB 150 be postponed until Thursday, May 19, at 10 a.m.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 18, 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 concurred in House Amendments to SB 396 by viva voce vote; SB 727 by viva voce vote; SB 911 by viva voce vote; SB 1030 by viva voce vote; SB 1270 by 27 yeas, 0 nays; SJR 13 by 27 yeas, 0 nays.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to SB 565 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 Washington, Chairman, Mauzy, Glasgow, Montford, Parker.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to SB 232 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, Farabee, Doggett, Parmer, Howard.

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

HB 1849 by Messer, relating to fraud in a transaction involving real estate or stock in a corporation or joint stock company.

Respectfully,

Betty King
Secretary of the Senate
SB 928 ON THIRD READING
(Simpson - House Sponsor)

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

SB 928, A bill to be entitled An Act relating to continuation of the State Board of Insurance and to the regulation of the business of insurance; to the powers and duties of the State Board of Insurance and the Commissioner of Insurance, the State Fire Marshal, and the State Auditor; and to the operations of the board and the qualifications and activities of the commissioner, members of the board, and personnel; authorizing certain fees and other charges and creating the State Board of Insurance operating fund; providing for its sources, administration, and uses; providing for audits by the State Auditor; providing notice of complaint procedures to insureds; providing for payment of premium taxes under protest and a limitation period for filing suits for refund.

The bill was read third time.

Representative Gavin offered the following amendment to the bill:

Amend SB 928 by adding a new Section 91 to read as follows and renumber subsequent sections accordingly:

SECTION 91. Subsection (4), Section 5, Article 21.28-D, Insurance Code, is amended to read as follows:

(4) "Contractual obligation" means any policy or contract benefit (including but not limited to death, disability, hospitalization, medical, premium deposits, advance premiums, supplemental contracts, cash surrender, loan, nonforfeiture, extended coverage, annuities, and coupon and dividend accumulations to the owner, beneficiary, assignee, certificate holder, or third-party beneficiary), arising from an insurance policy or annuity contract to which this Act applies, issued or assumed by an insurer who becomes an impaired insurer. A contractual obligation shall not include an amount in excess of $300,000 in the aggregate under one or more covered policies on any one life; nor shall a contractual obligation include an amount in excess of $300,000 in the aggregate under one or more annuity contracts within the scope of this Act issued to the same contract holder of individual annuity policies or to the same annuitant or participant under group annuity policies. If the impaired insurer has no assets within the State of Texas, or has insufficient assets to pay the expenses of administering the receivership or conservatorship of the impaired insurer, that portion of the expenses of administration incurred in the processing and payment of claims against the impaired insurer shall also be a contractual obligation under this Act.

The amendment was adopted without objection.

SB 928, as amended, was passed.

On motion of Representative Simpson and by unanimous consent, the caption of SB 928 was ordered amended to conform to the body of the bill.

SB 180 ON THIRD READING
(B. Gibson - House Sponsor)

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

SB 180, A bill to be entitled An Act relating to the continuation, administration, membership, powers and duties, and grounds for removal of members of the Industrial Accident Board; providing for confidentiality of certain procedures and records; providing funding and certain regulations concerning the Compensation to Victims of Crime Fund, administered by the board; providing
The bill was read third time.

Representative Oliver offered the following amendment to the bill:

Amend SB 180, SECTION 2, page 6, line 13, by adding a new Subdivision (e) to proposed Section 3a, to read as follows:

(e) The executive director or his/her designee shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age or national origin. The plans shall include:

1. a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;
2. plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;
3. steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's workforce; and
4. objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within sixty days of the effective date of this Act, cover an annual period and be updated at least annually. Progress reports shall be submitted to the Governor's office within thirty days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

The amendment was adopted without objection.

SB 180, as amended, was passed.

On motion of Representative B. Gibson and by unanimous consent, the caption of SB 180 was ordered amended to conform to the body of the bill.

SB 1141 ON THIRD READING
(Schlueter - House Sponsor)

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

SB 1141, A bill to be entitled An Act relating to the regulation of motor vehicle manufacturers, distributors, and sellers of new motor vehicles; to the protection of purchasers of new motor vehicles; to certain related legal actions by consumers; giving the Texas Motor Vehicle Commission certain powers and duties; imposing certain license fees; defining "motor vehicle" and "new motor vehicle"; providing different effective dates; amending Sections 1.03; 5.02; and 5.04; Subsections (b) and (j), Section 3.04; Subsection (a), Section 4.05; Subsections (b) and (c), Section 4.07; and adding Section 6.07, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes).

A record vote was requested.

The bill was read third time and was passed by (Record 428): 145 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Agich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick;
Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistwcidt; Gibson, B.; 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.; Hur; 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; Polambo; Presnal; 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; Wisting; Willis; Wolens; Word; Wright.

Yay — Price.
Present, not voting — Mr. Speaker(C).
Absent — Edwards; Rudd; Wilson.

On motion of Representative Schlueter and by unanimous consent, the caption of SB 1141 was ordered amended to conform to the body of the bill.

SB 1 ON THIRD READING
(T. Smith - House Sponsor)

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

SB 1, A bill to be entitled An Act relating to driving while intoxicated, involuntary manslaughter involving the use of a motor vehicle, and allowing a dangerous driver to borrow a motor vehicle; providing for visual recording of a person arrested, for tests and trial procedures for dealing with an offender, and for the criminal and civil consequences of a conviction of those offenses, including insurance consequences and forfeiture of motor vehicles; and changing penalties.

The bill was read third time.

Representative Barrientos offered the following amendment to the bill:

Amend SB 1, on page 35, line 27 of the first printing by striking “60” and substituting “120”.

The amendment was adopted without objection.

Representative Gilley offered the following amendment to the bill:

Amend SB 1 on page 43, line 15, by striking “25,000” and substituting “75,000”.

The amendment was adopted without objection.

SB 1, as amended, was passed. (J. Gibson recorded voting yes)

On motion of Representative T. Smith and by unanimous consent, the caption of SB 1 was ordered amended to conform to the body of the bill.

SB 440 - POSTPONED

Representative Berlanga moved that consideration of SB 440 be postponed until 2 p.m. today.
Representative Pennington moved to table the motion to postpone.

A record vote was requested.

The motion to table was lost by (Record 429): 54 Yeas, 89 Nays, 2 Present, not voting.

Yea — Agnich; Blanton; Buchanan; Cain; Clark; Clemens; Collazo; Connelly; Craddick; Denton; Eckels; Edwards; Emmett; English; Fox; Gibson, B.; Granoff; Green; Hall, L.; Hammond; Hanna; Harrison, D.; Helbin; Hightower; Hill, A.; Hollower; Hudson, D.; Jackson; Khoury; Leonard; McKenna; McWilliams; Messer; Patterson; Pennington; Price; Rudd; Saunders; Schlueter; Shaw; Shea; Simpson; Smith, C.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Toomey; Turner; Waldrop; Whaley; Wolens; Wright.

Nays — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Bomer; Burnett; Cary; Cavazos; Cervera; Colbert; Coody; Criss; Crockett; Danburg; Davis; Delay; Delco; Ekenburg; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, J.; Gille; Glossbrenner; Hackney; Hall, T.; Hall, W.; Harrison, W.; Hernandez; Hibbert; Hill, G.; Hill, P.; Hinojosa; Horn; Hudson, S.; Hur; Jones; Keller; Kemp; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Luna; Madia; Mankins; Martinez; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Peveto; Pierce; Polumbo; Presnal; Ragus; Rangel; Robinson; Robnett; Russell; Salinas; Schoolcraft; Short; Smith, A.; Smith, T.; Thompson, S.; Tow; Uher; Valles; Wallace; Watson; Wieting; Willis; Wilson; Word.

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

Absent — Bush; Carriker; Haley; Polk; Vowell.

The motion to postpone prevailed.

SB 1152 ON THIRD READING
(Keller - House Sponsor)

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

SB 1152, A bill to be entitled An Act relating to the use of firearms by private security officers; amending Subdivisions (18) and (23), Section 2; Subsections (a) and (d), Section 3; the heading and Subsections (a) and (l), Section 19; and Subsections (b), (e), and (g), Section 20, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes).

The bill was read third time and was passed.

On motion of Representative Keller and by unanimous consent, the caption of SB 1152 was ordered amended to conform to the body of the bill.

SB 969 ON THIRD READING
(E. F. Lee - House Sponsor)

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

SB 969, A bill to be entitled An Act relating to the authority of certain counties to contract for the improvement of highways in the counties and to assess the cost of the improvements to the owners of property benefited by the improvements, to other powers and duties of the governing body, and to hearing and appeal procedures.
A record vote was requested.

The bill was read third time and was passed by (Record 430): 134 Yeas, 2 Nays, 1 Present, not voting.

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

Nays — Kubiak; Uher.

Present, not voting — Mr. Speaker(C).

Absent — Fox; Gibson, J.; Harrison, D.; Heflin; Hill, A.; Hollowell; Oliver; Parker; Robinson; Smith, C.; Vowell; Wilson; Wright.

**SB 578 ON THIRD READING**

(Presnal - House Sponsor)

The speaker laid before the house on its third reading and final passage, SB 578, A bill to be entitled An Act relating to the authority of the Board of Regents of The Texas A&M University System to grant, sell, lease, or otherwise dispose of certain Texas A&M University System property; amending Section 85.25, Texas Education Code.

The bill was read third time and was passed.

**SB 671 ON SECOND READING**

(Laney - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 671, A bill to be entitled An Act relating to licensing and regulation of dietitians and to the membership, qualifications, and duties of the Texas State Board of Examiners of Dietitians and to the duties of the Texas Board of Health, and the Texas Department of Health; authorizing fees to meet expenses necessary to administer the Act; requiring an annual audit and certain reports; defining certain offenses and providing penalties.

The bill was read second time.

Representative Bomer offered the following committee amendment to the bill:
COMMITTEE AMENDMENT NO. 1

Amend SB 671 as follows:

Strike the language “September 1, 1991” on page 15, line 1, and add the language “September 1, 1993”.

Committee Amendment No. 1 was adopted without objection.

SB 671, as amended, was passed to third reading.

SB 800 ON SECOND READING
(Kuempel - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 800.

CSSB 800

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a city, town, or village to make an agreement or contract with a conservation and reclamation district for the purchase of hydroelectric power or energy.

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

SECTION 1. AUTHORITY TO CONTRACT. Any incorporated city, town, or village, including any home-rule city, in this state may agree or contract with any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be on the terms and conditions and for a period as the parties may agree. The agreement or contract constitutes a valid and binding obligation of the city, town, or village and is enforceable in accordance with its terms and provisions. If the agreement or contract so provides, the city, town, or village is obligated to pay for the hydroelectric power or energy irrespective of whether the hydroelectric power or energy is produced or delivered to the city, town, or village. Furthermore, the agreement or contract may include provisions for the acquiring, constructing, and equipping of generation and transmission facilities to supply the hydroelectric power and energy to be supplied and purchased under the agreement or contract; provisions with respect to financing the costs and expenses of the generation and transmission facilities; and provisions that the agreement or contract shall continue in force and effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. These provisions are as may be provided and specified in the agreement or contract between the parties.

SECTION 2. ADDITIONAL PROVISIONS. Amounts required to be paid by the city, town, or village to the district under the agreement or contract shall, if so provided in the agreement or contract, constitute an operating expense of the electric system, or combined utility system of which the electric system constitutes a part, of the city, town, or village in the same manner and effect as other operating and maintenance expenses of the electric system, or combined utility system, as provided by Article 1113, Revised Statutes.

SECTION 3. VALIDATION OF CONTRACT. An agreement or contract executed before the effective date of this Act by and between a city, town, or village and a conservation and reclamation district that obligates the city, town, or village in the manner authorized by Section 1 of this Act is validated, ratified, and confirmed and constitutes a lawfully incurred obligation on the part of the city, town, or village and is subject to the other provisions of this Act.

SECTION 4. OTHER LAWS. The powers and authority granted by this Act are in addition to any powers and authority granted to cities, towns, and villages
under the laws of this state and constitute additional public purposes of the cities, towns, and villages. This Act is wholly sufficient authority for the performance or effectuation of an agreement or contract entered into under this Act notwithstanding any express or implied limitations on the powers, authority, or purposes of cities, towns, or villages under any other general or special law, charter provision, or ordinance.

SECTION 5. 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.

CSSB 800 was read second time and was passed to third reading.

SB 1019 ON SECOND READING
(Barringtons - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 1019, A bill to be entitled An Act relating to prohibiting staff of a general hospital from certain discriminatory practices in providing emergency diagnoses and services; requiring written notice of the provisions of this Act be given appropriate personnel by a hospital; providing penalties; amending Chapter 495, Acts of the 64th Legislature, Regular Session, 1975 (Article 4438a, Vernon’s Texas Civil Statutes), by amending Sections 1, 2, and 3 and by adding Section 4.

The bill was read second time and was passed to third reading. (Ceverha, Fox, and Blanton recorded voting no)

SB 138 ON SECOND READING
(Criss - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 138.

CSSB 138

A BILL TO BE ENTITLED
AN ACT
relating to costs imposed on criminal convictions for the purpose of funding the Compensation to Victims of Crime Fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 14, Crime Victims Compensation Act (Article 8309-1, Vernon’s Texas Civil Statutes), is amended by amending Subsections (b), (e), and (f) and adding Subsection (h) to read as follows:

(b) A person shall pay $20 ($5) as a court cost, in addition to other court costs, on conviction of any felony, $15 and shall pay $10 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by imprisonment or by a fine of more than $200, and $12.50 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by a fine of not more than $200. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon’s Texas Civil Statutes), or under the Uniform Act Regulating Traffic on Highways (Article 6701a, Vernon’s Texas Civil Statutes) is specifically excluded. The court shall require a person convicted of an offense listed under this section to pay the court cost whether or not the court grants the person a probated sentence. If a person is granted deferred
adjudication under Article 42.12, 42.13, or 45.54, Code of Criminal Procedure, 1965, at the time the court grants deferred adjudication, the person shall pay as a court cost the amount that the person would have otherwise been required to pay under this subsection had the adjudication not been deferred and had the person been finally convicted of the offense.

(e) The custodian of a municipal or county treasury shall keep records of the amount of funds on deposit collected under this section and shall remit to the comptroller of public accounts before the last [16th] day of each calendar quarter [month] the funds collected under this section during the preceding quarter [month]. The city and the county may retain [10] [five] percent of the funds collected under this section as a collection fee. If no funds due as costs under this section have been collected in a quarter, the report required for the quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(f) The comptroller of public accounts shall deposit the funds received by him or her under this section in the Compensation to Victims of Crime Fund. Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the state auditor.

(h) If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board shall issue a public letter of warning to the court. If the court is a county court, the board shall send a copy of the letter to the commissioners court of the county in which the court presides. If the court is a municipal court, the board shall send a copy of the letter to the governing body of the municipality in which the court presides.

SECTION 2. This Act takes effect January 1, 1984, and applies only to the imposition of an additional court cost under the Crime Victims Compensation Act for conviction of an offense committed on or after that date. Court costs for an offense committed before that date are covered by the law in effect on the date the offense was committed, and the prior law is continued in effect for this purpose.

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.

CSSB 138 was read second time and was passed to third reading.

SB 118 ON SECOND READING
(Kubiak - House Sponsor)

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

SB 118, A bill to be entitled An Act relating to the reorganization of the 20th and 82nd Judicial Districts; amending Subdivisions 20 and 82, Article 199, Revised Statutes, as amended.

The bill was read second time and was passed to third reading.

SB 129 ON SECOND READING
(T. Hall - House Sponsor)

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

SB 129, A bill to be entitled An Act relating to benefits from the Employees Retirement System of Texas and increasing benefits for elected class service; amending Section 24.102; Subsection (b), Section 24.103; Section 24.104; and Subsection (a), Section 24.202, Title 110B, Revised Statutes.
The bill was read second time and was passed to third reading. (Hollowell, Ceverha, Toomey, Fox, Heflin, A. Smith, P. Hill, Shea, G. Thompson, Leonard, Emmett, and Green recorded voting no)

SB 60 ON SECOND READING
(T. Smith - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 60.

CSSB 60

A BILL TO BE ENTITLED
AN ACT
relating to certificates of completion withheld by proprietary schools, refunds given by proprietary schools, and fees imposed on proprietary schools and their representatives.

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

SECTION 1. Section 32.33(f), Texas Education Code, is amended to read as follows:

(f) Except as provided by Section 32.40 of this code, upon completion of training, the student is given a certificate by the school indicating the course and that training was satisfactorily completed.

SECTION 2. Subchapter D, Chapter 32, Texas Education Code, is amended by adding Section 32.40 to read as follows:

Sec. 32.40. WITHHOLDING CERTIFICATE OF COMPLETION. A proprietary school may withhold a student's certificate of completion of training until the student has fulfilled his financial obligation to the school.

SECTION 3. Section 32.39(b), Texas Education Code, is amended to read as follows:

(b) As a condition for granting certification, each school must maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter the course, or withdraws, or is discontinued therefrom at any time prior to completion, and such policy must provide:

1. refunds for resident courses will be based on the period of enrollment computed on the basis of course time expressed in clock hours;
2. the effective date of the termination for refund purposes in residence schools will be the earliest of the following:
   (A) the last date of attendance, if the student is terminated by the school;
   (B) the date of receipt of written notice from the student;
   (C) ten school days following the last date of attendance;
3. if tuition is collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence school, not more than $100 ($56) shall be retained by the school;
4. for the student who enters a residence course of not more than 12 months in length, terminates or withdraws, the school may retain $100 ($56) of tuition and fees and the minimum refund of the remaining tuition will be:
   (A) during the first week or one-tenth of the course, whichever is less, 90 percent of the remaining tuition;
   (B) after the first week or one-tenth of the course, whichever is less, but within the first quarter of the course, 75 percent of the remaining tuition;
section 32.39, Texas Education Code, is amended by adding subsection (e) to read as follows:

(c) subsection (b)(4) or (b)(5) of this section does not apply to a school if the school is accredited by a national or regional accrediting commission approved by the United States Department of Education and complies with a refund policy of that commission in giving refunds to students who enter residency courses and terminate or withdraw from the courses before completing the courses.

section 5. Sec. 32.71, Texas Education Code, is amended to read as follows:

Sec. 32.71. CERTIFICATE AND REGISTRATION FEES. Certificate and registration fees shall be collected by the Administrator and deposited with the State Treasurer in accordance with the following schedule:

(1) the initial fee for a school is $500 [Two Hundred Fifty Dollars ($250.00)];

(2) the annual renewal fee for a school is $400 [Two Hundred Dollars ($200.00)];
(3) the initial registration fee for a representative is $40 [Twenty Dollars ($20.00)]; and
(4) the annual renewal fee for a representative is $20 [Ten Dollars ($10.00)].

SECTION 6. (a) Section 3 of this Act applies only to a proprietary school's retention of tuition, fees, and other charges for a course that begins on or after September 1, 1983. Retention of tuition, fees, and other charges for a course that began before September 1, 1983, is governed by Section 32.39(b), Texas Education Code, as it existed before amendment by this Act, and that law is continued in effect for that purpose.

(b) Section 4 of this Act applies only to refunds given by a proprietary school for a course that begins on or after September 1, 1983.

(c) Section 5 of this Act applies only to fees payable by a proprietary school or its representative on or after September 1, 1983.

SECTION 7. This Act takes effect September 1, 1983.

SECTION 8. 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.

CSSB 60 was read second time.

Representative Delco moved to table CSSB 60.

The motion to table prevailed.

SB 216 ON SECOND READING
(Danburg - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 216, A bill to be entitled An Act relating to licenses and permits and to license fees, user fees, penalties, and other charges connected with the duties, services, and functions of the Parks and Wildlife Department; amending the Parks and Wildlife Code, as amended, by amending Subsections (a) and (b), Section 31.026; Section 31.030; Subsection (c), Section 31.037; Subsection (b), Section 31.041; Subsection (b), Section 31.043; Subsection (a), Section 31.048; Section 42.012; Section 42.013; Subsection (d), Section 42.017; Section 43.003; Subsection (a), Section 43.012; Section 43.044; Subsection (c), Section 43.072; Section 43.202; Section 43.253; Subsection (a), Section 43.256; Section 44.003; Subsection (a), Section 46.004; Subsection (b), Section 46.005; Subsection (b), Section 46.0051; Section 46.006; Subsection (b), Section 46.104; Subsections (b) and (c), Section 47.002; Subsections (b) and (c), Section 47.003; Subsection (b), Section 47.004; Subsection (b), Section 47.005; Subsections (a) and (b), Section 47.007; Subsection (b), Section 47.009; Section 47.010; Subsection (b), Section 47.011; Subsection (b), Section 47.013; Subsection (b), Section 47.014; Subsection (b), Section 47.015; Subsections (b) and (d), Section 47.016; Section 48.005; Section 49.003; Section 49.004; Section 49.0045; Section 49.007; Subsection (b), Section 49.008; Section 50.002; Section 51.005; Subsection (c), Section 66.206; Subsection (d), Section 66.211; Subsection (b), Section 76.017; Section 76.104; Subsection (b), Section 77.031; Subsection (b), Section 77.033; Subsection (b), Section 77.035; Subsection (b), Section 77.042; Subsection (b), Section 77.043; Subsection (b), Section 77.048; and Section 78.003; and by repealing Sections 42.006, 42.007, 42.008, 42.015, 42.016, 43.049, 43.257, 47.006, 47.012, 48.007, 61.208, and 258.032.
The bill was read second time.

Representative Connelly offered the following amendment to the bill:

Amend SB 216 by adding a new Section 43 as follows:

"(g) Any person importing, transporting, or selling for resale dead redfish or speckled sea trout taken, caught, or raised in any other state or country shall obtain a license from the commission. The fee for such license is $50 per calendar year or part thereof. Such imported fish shall be tagged, packaged, or labeled as provided in this section and in accordance with the regulations of the commission."

and renumbering existing sections accordingly.

The amendment was adopted without objection. (Hury and Criss recorded voting no)

SB 216, as amended, was passed to third reading. (Hury, Clark, Criss, Carrker, Denton, Bomer, Keller, McWilliams, Staniswalis, and Schlueter recorded voting no)

SB 224 ON SECOND READING
(Wolens - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 224, A bill to be entitled An Act relating to the creation, jurisdiction, personnel, administration, and appeals procedures of municipal courts of record in the City of Dallas and powers and duties of the governing body of the city in connection with the creation of these courts.

The bill was read second time.

Representative Rangel offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 224 as follows:

(1) Add a comma ",", after the word "cases" on Page 1, line 14, and by adding a comma ",", after the word "offenses" on Page 1, line 14.

Committee Amendment No. 1 was adopted without objection.

Representative Rangel offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend SB 224 as follows:

(1) Delete lines 19-21, Page 6 and substitute in lieu thereof the following:

(6) all written motions, pleas and orders of court
(7) bill of exception; and
(8) certified copies of all ordinances of which the municipal judge took notice.

Committee Amendment No. 2 was adopted without objection.

SB 224, as amended, was passed to third reading. (Hollowell recorded voting no)

SB 557 ON SECOND READING
(T. Smith - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 557.
CSSB 557

A BILL TO BE ENTITLED
AN ACT
relating to offenses involving dog fighting and to the disposition of property
connected with dog fighting.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.111
to read as follows:
Sec. 42.111. DOG FIGHTING. (a) A person commits an offense if he
intentionally or knowingly:
(1) causes a dog to fight with another dog;
(2) for a pecuniary benefit causes a dog to fight with another dog;
(3) participates in the earnings of or operates a facility used for dog
fighting;
(4) uses or permits another to use any real estate, building, room,
tent, arena, or other property for dog fighting;
(5) owns or trains a dog with the intent that the dog be used in an
exhibition of dog fighting; or
(6) attends as a spectator an exhibition of dog fighting.
(b) In this section, “dog fighting” means any situation in which one dog
attacks or fights with another dog.
(c) A party to an offense under Subsection (a)(2), (3), or (4) of this section may
be required to furnish evidence or testify about the offense but may not be
prosecuted for the offense about which he is required to furnish evidence or testify.
(d) A conviction under Subsection (a)(2), (3), or (4) of this section may be had
upon the uncorroborated testimony of a party to the offense.
(e) It is a defense to prosecution under Subsection (a)(1) or (2) of this section
that the actor caused a dog to fight with another dog to protect livestock, other
property, or a person from the other dog, and for no other purpose.
(f) An offense under Subsection (a)(1) or (5) of this section is a Class A
misdemeanor. An offense under Subsection (a)(2), (3), or (4) of this section is a
felony of the third degree. An offense under Subsection (a)(6) of this section is a
Class C misdemeanor.
SECTION 2. Articles 18.18(a) and (b), Code of Criminal Procedure, 1965, are
amended to read as follows:
(a) Following the final conviction of a person for possession of a gambling
device or equipment, altered gambling equipment, or gambling paraphernalia, for
an offense involving a criminal instrument, or an offense involving a prohibited
weapon, the court entering the judgment of conviction shall order that the machine,
device, gambling equipment or gambling paraphernalia, instrument, or weapon be
destroyed or forfeited to the state. Following the final conviction of a person for an
offense involving dog fighting, the court entering the judgement of conviction shall
order that any dog-fighting equipment be destroyed or forfeited to the state.
Destruction of dogs, if necessary, must be carried out by a veterinarian licensed in
this state or, if one is not available, by trained personnel of a humane society or an
animal shelter. If forfeited, the court shall order the contraband delivered to the
state, any political subdivision of the state, or to any state institution or agency. If
gambling proceeds were seized, the court shall order them forfeited to the state and
shall transmit them to the grand jury of the county in which they were seized for
use in investigating alleged violations of the Penal Code, or to the state, any political
subdivision of the state, or to any state institution or agency.
(b) If there is no prosecution or conviction following seizure, the magistrate
to whom the return was made shall notify in writing the person found in possession
of the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, or criminal instrument, or dog-fighting equipment to show cause why the property seized should not be destroyed or the proceeds forfeited.

SECTION 3. Articles 18.18(c), (f), and (g), Code of Criminal Procedure, 1965, are amended to read as follows:

(e) Any person interested in the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, or criminal instrument, or dog-fighting equipment seized must appear before the magistrate on the 20th day following the date the notice was mailed or posted. Failure to timely appear forfeits any interest the person may have in the property or proceeds seized, and no person after failing to timely appear may contest destruction or forfeiture.

(f) If a person timely appears to show cause why the property or proceeds should not be destroyed or forfeited, the magistrate shall conduct a hearing on the issue and determine the nature of property or proceeds and the person's interest therein. Unless the person proves by a preponderance of the evidence that the property or proceeds is not gambling equipment, altered gambling equipment, gambling paraphernalia, gambling device, gambling proceeds, prohibited weapon, or criminal instrument, or dog-fighting equipment and that he is entitled to possession, the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article.

(g) For purposes of this article:

(1) “criminal instrument” has the meaning defined in the Penal Code;
(2) “gambling device or equipment, altered gambling equipment or gambling paraphernalia” has the meaning defined in the Penal Code;
(3) “prohibited weapon” has the meaning defined in the Penal Code; and
(4) “dog-fighting equipment” means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;
(B) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or
(C) a dog trained, being trained, or intended to be used to fight with another dog.

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.

CSSB 557 was read second time.

Representative Whaley offered the following amendment to CSSB 557:

Amend the committee substitute for SB 557 as follows:

(1) On page 4, insert after line 22 the following new subsection: “(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog.”
(2) On page 4, line 23, redesignate subsection “(B)” as subsection “(C).”
(3) On page 4, line 26, redesignate subsection “(C)” as subsection “(D).”

The amendment was adopted without objection.
CSSB 557, as amended, was passed to third reading. (Patterson, Criss, and Green recorded voting no)

MESSAGE FROM THE SENATE

Austin, Texas, May 18, 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:

CSHB 1473 by Gilley, et al., relating to the creation or reorganization of certain judicial districts.

HB 894 by Presnal, relating to fees imposed and collected by state agencies.

(amended)

Respectfully,
Betty King
Secretary of the Senate

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Appropriations, on noon recess today, Desk 58, to consider SB 456.

Labor and Employment Relations, Subcommittee on HB 1660, on noon recess today, Desk 67, to consider HB 1660.

Conference Committee on SB 409, 3 p.m. today, speakers committee room, to consider SB 409.

Higher Education, on noon recess today, Desk 110, to consider SB 799.

RECESS

Representative Haley moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 11:58 a.m., recessed until 2 p.m. today.

AFTERNOON SESSION

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

HB 2436 - SET AS SPECIAL ORDER

Representative Schlueter moved to set HB 2436 as a special order for 10 a.m., Thursday, May 19.

The motion prevailed without objection.

HB 1473 WITH SENATE AMENDMENTS

Representative Gilley called up with senate amendments for consideration at this time.

HB 1473, A bill to be entitled An Act relating to the creation or reorganization of certain judicial districts, supplemental compensation of certain district judges, exchange of benches by certain district judges, creation of the office of district
attorney in certain judicial districts, duties and election of certain district attorneys, and the juvenile boards of certain counties.

Representative Gilley 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 1473 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on HB 1473: Gilley, chair; Parker, Bush, T. Smith, and Stiles.

SB 232 - REQUEST OF SENATE GRANTED

On motion of Representative Berlanga, the house granted the request of the senate for the appointment of a conference committee on SB 232.

SB 232 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on SB 232: Bomer, chair; Laney, Keller, Turner, and Short.

SB 440 ON SECOND READING

(Berlanga - House Sponsor)

The speaker laid before the house, as postponed business, on its second reading and passage to third reading, the complete committee substitute for SB 440.

CSSB 440

A BILL TO BE ENTITLED
AN ACT
relating to the regulation and licensing of pari-mutuel wagering on horse racing; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. The Texas Horse Racing Act is enacted to read as follows:
ARTICLE 1. GENERAL PROVISIONS
Sec. 1.01. SHORT TITLE. This Act may be cited as the Texas Horse Racing Act.
Sec. 1.02. PURPOSES. The purposes of this Act are to encourage agriculture, the horse-breeding industry, the horse-training industry, tourism, and employment opportunities in this state related to horse racing and to provide for the strict regulation and control of pari-mutuel wagering in connection with horse racing in counties on a local-option basis.
Sec. 1.03. DEFINITIONS. In this Act:
(1) “Person” includes any individual or entity capable of holding a legal or beneficial interest in property.
(2) “Association” includes any individual or entity capable of holding a legal or beneficial interest in property.
(3) “Commission” means the Texas Horse Racing Commission.
(4) “Comptroller” means the comptroller of public accounts.
(5) “Executive secretary” means the executive secretary of the Texas Horse Racing Commission.
(6) “Race meeting” means the conducting of horse races on a day or during a period of consecutive or nonconsecutive days.
(7) “Thoroughbred horse” means a horse that is registered by the Jockey Club, New York City, New York.

(8) “Thoroughbred racing” means the form of horse racing in which Thoroughbred horses mounted by jockeys engage in a race.

(9) “Quarter horse” means a horse that is registered by the American Quarter Horse Association, Amarillo, Texas.

(10) “Quarter horse racing” means the form of horse racing in which quarter horses mounted by jockeys engage in a race over a distance of less than one-half mile.

(11) “Appaloosa horse” means a horse that is registered by the Appaloosa Horse Club, Moscow, Idaho.

(12) “Appaloosa racing” means the form of horse racing in which Appaloosa horses mounted by jockeys engage in a race.

(13) “Arabian horse” means a horse that is registered by the Arabian Horse Registry of America, Denver, Colorado.

(14) “Arabian racing” means the form of horse racing in which Arabian horses mounted by jockeys engage in a race over a distance of at least 1-1/2 miles.

(15) “Paint horse” means a horse that is registered by The American Paint Horse Association, Fort Worth, Texas.

(16) “Paint horse racing” means the form of horse racing in which paint horses mounted by jockeys engage in a race.

(17) “Enclosure” means all areas of a racing association’s grounds, including the parking area, to which admission can be obtained only on payment of an admission fee or presentation of official credentials.

(18) “Pari-mutuel wagering” means the form of wagering on the outcome of horse racing in which those who wager purchase tickets of various denominations on a horse or horses and all wagers for each race are pooled and held by the racing association for distribution of the total amount, less the deductions authorized by this Act, to holders of tickets on the winning horse or horses.

(19) “Pari-mutuel pool” means the total amount of money wagered by patrons on the result of a particular race or combination of races, the total being divided into separate mutuel pools for win, place, and show, and for combinations such as the daily double when they are used.

(20) “Breakage” means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents, except in the event a minus pool occurs, the breakage shall be in multiples of five cents.

(21) “Texas-bred horse” means a horse that is sired by a stallion standing in Texas at the time of conception and foaled by a mare in Texas, except that a mare may be bred outside of Texas and brought into Texas to foal and every other foal sired and foaled under those conditions in the mare’s lifetime shall be considered “Texas-bred” if the mare is bred back to a stallion standing in Texas. In all instances any foal must qualify under the rules of the commission.

(22) “Accredited Texas-bred horse” means a Texas-bred horse that meets the accreditation requirements of his state breed registry.

(23) “Mixed racing” means a race in which different breeds participate.

(24) “State breed registry” means a designated association administering accredited Texas-bred requirements for its specific breed.

(25) “Racetrack” means a facility that is licensed under this Act for the conduct of pari-mutuel wagering on horse racing.

(26) “Racing day” means the 24-hour period ending at 12 midnight.

ARTICLE 2. TEXAS HORSE RACING COMMISSION

Sec. 2.01. CREATION. The Texas Horse Racing Commission is created.

Sec. 2.02. MEMBERSHIP. The commission consists of six members appointed by the governor with the advice and consent of the senate and two ex
officio members who shall have the right to vote. The ex officio members are the
director of the Department of Public Safety and the comptroller of public accounts.
Appointments to the commission shall be made without regard for the race, creed,
sex, religion, and national origin of the appointees and the geographical distribution
of the members of the commission.

Sec. 2.03. TERM OF OFFICE. (a) Except for the initial appointments,
appointed members hold office for staggered terms of six years, with two members'
terms expiring January 31 of each odd-numbered year. A member holds office until
his successor is appointed and qualifies.

(b) In making the initial appointments, the governor shall designate two
appointed members for terms expiring January 31, 1985, two for terms expiring

(c) The ex officio members hold office on the commission for the time for
which they hold their other offices.

Sec. 2.04. RESIDENCE REQUIREMENT. An appointed member is not
eligible to be a member of the commission unless he has been a resident of this state
for at least 10 consecutive years.

Sec. 2.05. DISQUALIFICATIONS. A person is disqualified from being an
appointed member of the commission if he owns any financial interest in a racetrack
or its operation or if he is related within the second degree by consanguinity or
affinity to a person who owns any financial interest in a racetrack or its operation.
All persons appointed to or employed by the commission are subject to all
background checks and qualification criteria required to hold a racetrack license or
other license under this Act.

Sec. 2.06. FINANCIAL STATEMENT. An appointed member of the
commission is an “appointed officer of a major state agency” within the meaning
of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article
6252-9b, Vernon’s Texas Civil Statutes). An appointee shall also file a detailed
financial statement of the type required by the Banking Department of Texas in the
application for charter for state banks.

Sec. 2.07. PROHIBITED CONDUCT. A member of the commission
commits an offense if he:

1. accepts any remuneration from a racetrack association, whether the
   racetrack is located in this state or elsewhere;

2. wagers or causes a wager to be placed on the outcome of a horse race
   conducted in this state; or

3. accepts any part of the purse or winnings of a horse in a race conducted
   in this state.

Sec. 2.08. EXPENSES. Each appointed member of the commission is
entitled to a per diem in an amount prescribed by legislative appropriation for each
day spent in performing the duties of his office and is entitled to reimbursement for
actual and necessary expenses incurred in performing those duties. The ex officio
members are entitled to reimbursement for expenses from their respective agencies
as provided by law for expenses incurred in the performance of their other official
duties.

Sec. 2.09. OFFICES. The commission shall maintain its general office in the
city of Austin. The commission may also establish branch offices.

Sec. 2.10. CHAIRMAN. (a) The members of the commission shall elect one
of the members chairman to serve a term of two years.

(b) If a vote of the commission results in a tie, the chairman shall reconsider
the matter and then shall vote again to resolve the tie.

Sec. 2.11. MEETINGS OF COMMISSION. (a) The commission shall hold
at least six regular meetings each year on dates fixed by the commission. The
commission shall make rules providing for the holding of special meetings.
(b) A majority of the commission constitutes a quorum.
(c) The commission shall keep at its general office a public record of every vote.

Sec. 2.12. EXECUTIVE SECRETARY; EMPLOYEES. (a) The commission shall employ an executive secretary and other employees as necessary to administer this Act.
(b) The commission may not employ or continue to employ a person:
(1) who owns a financial interest in a racetrack or its operation;
(2) who accepts any remuneration from a racetrack; or
(3) who is an owner, lessor, or lessee of a horse that is entered in a race in this state.
(c) The commission may not employ or continue to employ a person related within the second degree by consanguinity or affinity to a person subject to a disqualification prescribed by Subsection (b) of this section.

Sec. 2.13. EXECUTIVE SECRETARY; DUTIES. The executive secretary shall keep the records of the commission and perform other duties required by the commission.

Sec. 2.14. LEGAL REPRESENTATION. The attorney general shall designate at least one member of his staff to counsel and advise the commission and to represent the commission in legal proceedings. The attorney general shall make available to the appropriate prosecuting attorneys any information obtained regarding violations of this Act.

Sec. 2.15. RECORDS. All records of the commission that are not made confidential by other law are open to inspection by the public during regular office hours. The contents of the investigatory files of the commission, however, are not public records and are confidential except in a criminal proceeding or in a hearing conducted by the commission.

ARTICLE 3. POWERS AND DUTIES OF COMMISSION

Sec. 3.01. REGULATION AND SUPERVISION. The commission shall regulate and supervise every meeting involving wagering on the result of horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision. The commission shall make rules for conducting horse racing involving wagering and other rules to administer this Act that are consistent with this Act.

Sec. 3.02. POWER OF ENTRY. The commission and its authorized agents may enter the office, racetrack, or other place of business of an association at any time for the purpose of enforcing and administering this Act.

Sec. 3.03. REQUIREMENT OF BOOKS AND RECORDS. The commission shall require associations, managers, and concessionaires to keep books and records and to submit financial statements and may make reasonable rules relating to those matters.

Sec. 3.04. SUBPOENA POWER. (a) The commission or its duly appointed agents in carrying out their functions under this Act may take testimony and require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence, and documents that the commission deems advisable. Subpoenas shall be issued under the signature of the commission or its duly appointed agent and shall be served by any person designated by the commission. Any member of the commission or its duly appointed agents may administer oaths or affirmations to witnesses appearing before the commission or its duly appointed agents.

(b) In case of disobedience to a subpoena issued under this section, the commission or its duly appointed agents may invoke the aid of the appropriate state court in requiring compliance with the subpoena. Any court having jurisdiction where such person is found or transacts business may, in case of refusal to obey a
subpoena issued by the commission or its duly appointed agents, issue an order requiring the person to appear and testify and to produce books, records, papers, correspondence, and documents, and failure to obey the order of the court shall be punished by the court as contempt.

Sec. 3.05. CERTIFIED DOCUMENTS. Instead of requiring an affidavit or other sworn statement in any application or other document required to be filed with it, the commission may require a certification of the document under penalty of perjury in the form the commission may prescribe.

Sec. 3.06. OFFICIALS OF RACE MEETINGS. (a) Each race meeting shall be supervised by three stewards appointed and compensated by the commission. For each race meeting, the commission shall also employ a state veterinarian and shall approve the horseshoe inspector, placing judges, patrol judges, horse identifier, starter, and all other officials appointed by the association.

(b) The commission shall make rules specifying the authority of each official, including the power of stewards to impose penalties for unethical practices or violations of racing rules. A penalty imposed by the stewards may include a fine of not more than $5,000 or a suspension for not more than one year, or both. If, in the opinion of the stewards, the allowable penalties are not sufficient, they may refer the case to the commission for further action.

(c) The commission shall require each steward to take and pass both a written examination and a medical examination annually. The commission by rule shall prescribe the methods and procedures for taking the examinations and the standards for passing. Failure to pass an examination is a ground for refusal to issue an original or renewal steward's license or for suspension or revocation of a steward's license.

(d) Medication or drug testing performed under Section 13.03 of this Act shall be conducted by the Texas Veterinary Medical Diagnostic Laboratory or in conjunction with or by a private or public agency that is approved by the commission and the Texas Veterinary Medical Diagnostic Laboratory and that is accredited by the American Association of Veterinary Laboratory Diagnosticians. Charges for services performed under this section by the Texas Veterinary Medical Diagnostic Laboratory or an approved and accredited private or public agency shall be forwarded to the commission for approval as reasonable charges for the services. Charges may include but are not limited to expenses incurred for travel, lodging, testing, and processing of test results. The reasonable charges associated with medication or drug testing conducted under this Act shall be fully subsidized by the association receiving the services. On the approval of the charges being reasonable, the commission shall forward a copy of the charges to the association receiving the services for immediate payment. All persons performing testing services under this section and Section 13.03 of this Act must be licensed under Article 7 of this Act. A person conducting tests under this section is considered a state veterinarian for the purposes of Subsection (a) of this section.

Sec. 3.07. APPEAL FROM DECISION OF STEWARDS. A final decision of the stewards may be appealed to the commission. The commission shall make procedural rules relating to those appeals. The decision of the stewards is final unless reversed by the commission or unless the commission orders otherwise.

Sec. 3.08. FUNDING. The comptroller shall deposit five-sixths of the state's share of each pari-mutuel pool in the general revenue fund. All such money shall be appropriated only to fund the Aid to Families with Dependent Children Program administered under Chapter 31, Human Resources Code. The comptroller shall deposit one-sixth of the state's share of each pari-mutuel pool to the credit of the Texas water development fund created under Article III, Section 49-c, of the Texas Constitution and subject to legislative appropriation. The commission shall deposit all money it collects pursuant to this Act, except the breakage, in the state treasury.
to the credit of a special fund to be known as the Texas Horse Racing Commission fund. The special fund may be appropriated only for the administration and enforcement of this Act. Any unappropriated money remaining in the special fund during each succeeding biennium shall be deposited in the general revenue fund and may be appropriated for any legal purpose. The legislature may also appropriate money from the general revenue fund for the administration and enforcement of this Act.

Sec. 3.09. ANNUAL REPORT. The commission shall make a report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 31 of each year covering its operations and the condition of horse breeding and racing during the previous year and making whatever recommendations it considers desirable.

Sec. 3.10. COOPERATION WITH PEACE OFFICERS. The commission shall cooperate with all district attorneys, criminal district attorneys, county attorneys, the Department of Public Safety, the attorney general, and all peace officers in enforcing this Act. Pursuant to their authority to conduct criminal justice information record checks as hereinafter described, the commission shall maintain and exchange pertinent intelligence data with other states and agencies.

Sec. 3.11. REPORTING OF VIOLATIONS. The commission's rules shall allow anonymous reporting of violations of this Act or rules of the commission.

ARTICLE 4. POWERS AND DUTIES OF COMPTROLLER

Sec. 4.01. BOOKS AND RECORDS. All books, records, and financial statements required by the commission under Section 3.03 of this Act are open to inspection by the comptroller.

Sec. 4.02. POWER OF ENTRY. The comptroller and his authorized agents may enter the office, racetrack, or other place of business of an association at any time for the purpose of inspecting an association's books, records, or financial statements required under Section 3.03 of this Act.

Sec. 4.03. RULES. The comptroller may adopt rules for the enforcement of his powers and duties under this Act.

Sec. 4.04. COLLECTION OF STATE'S PORTION OF PARI-MUTUEL POOL. The comptroller may prescribe by rule procedures for the collection of the state's portion of each pari-mutuel pool.

Sec. 4.05. COMPLIANCE. If an association does not comply with a rule adopted under this article or refuses to allow access to or inspection of any of its required books, records, or financial statements or is shown on the records of the comptroller as being delinquent for the state's portion of the pari-mutuel pool collected by the comptroller, the comptroller shall certify that fact to the commission. On receipt of the certification, the commission shall immediately revoke or suspend the association's license.

ARTICLE 5. LICENSES GENERALLY

Sec. 5.01. FORM; CERTIFICATE; FEES. (a) The commission shall prescribe forms for applications for licenses and shall provide each licensee with a license certificate or credentials.

(b) The commission shall prescribe reasonable license fees annually for each category of license issued under this Act sufficient to pay the costs of administering and enforcing this Act.

Sec. 5.02. JUDICIAL REVIEW. Judicial review of an order of the commission refusing to issue an original or renewal racetrack license or revoking or suspending a racetrack license is under the substantial evidence rule. Judicial review of an order respecting any other license is by trial de novo.

Sec. 5.03. FINGERPRINTS. (a) An applicant for any license under this Act must submit to the commission a complete set of fingerprints of the individual natural person applying for the license or, if the applicant is not an individual
natural person, a complete set of fingerprints of all officers, directors, incorporators, shareholders of more than 20 percent of the outstanding stock of a corporate licensee, or other members of any group of persons applying for a license under this Act.

(b) The commission shall, not later than the next day after receiving the prints, forward them by mail to the Texas Department of Public Safety. The department shall classify the prints and check them against its fingerprint files and shall certify its findings concerning the criminal record of the applicant or the lack of a record to the commission. A license may not be issued until the certification is made to the commission.

(c) The sheriff of any county or any district office of the commission shall take the fingerprints of an applicant for a license on forms approved and furnished by the Texas Department of Public Safety and shall immediately deliver them to the commission.

ARTICLE 6. RACETRACK LICENSES

Sec. 6.01. LICENSE REQUIRED. A person may not conduct a race meeting with wagering on its results without a racetrack license.

Sec. 6.02. CLASSIFICATION OF TRACKS. (a) Racetracks are classified as class 1 racetracks, class 2 racetracks, and class 3 racetracks.

(b) A class 1 racetrack is a racetrack on which racing is conducted for a minimum of 45 days during a calendar year, the number of days and the actual dates to be determined by the commission under Article 8 of this Act.

(c) A class 2 racetrack is a racetrack on which racing is conducted for a number of days not to exceed 44 days during a calendar year, the number of days and the actual dates to be determined by the commission under Article 8 of this Act. An association that holds a class 2 racetrack license and that conducted horse races in 1982 approved by the American Quarter Horse Association is entitled to conduct races for a number of days not to exceed 44 calendar days per year on the calendar dates selected by the association.

(d) A class 3 racetrack is a racetrack operated by a county or a nonprofit fair under Article 11 of this Act. An association that holds a class 3 racetrack license and that conducted horse races in 1982 is entitled to conduct races for a number of days not to exceed 14 calendar days per year on the calendar dates selected by the association.

Sec. 6.03. APPLICATION. (a) The commission shall require each applicant for a racetrack license or renewal license to submit an application, on a form prescribed by the commission, containing the following information:

1. the full name of the applicant and, if the applicant is a corporation, the state under which it is incorporated and the names and addresses of the corporation's agents for service of process in this state;

2. if the applicant is a corporation, the names and addresses of its directors and stockholders and, if an association, the names and addresses of its members;

3. the exact location at which a race meeting is to be conducted;

4. if the racing plant is in existence, whether it is owned by the applicant and, if leased to the applicant, the name and address of the owner and, if the owner is a corporation, the names and addresses of its directors, stockholders, and agents for service of process in this state and, if construction of the plant has not been initiated, whether it is to be owned by the applicant and, if it is to be leased to the applicant, the name and address of the prospective owner and, if the owner is a corporation, the names and addresses of its directors, stockholders, and agents for service of process in this state;

5. a detailed statement of the assets and liabilities of the applicant;

6. the kind of racing to be conducted and the dates requested;
(7) proof of residency as required by Section 6.06 of this article; 
(8) copies of all management and concession contracts dealing with the proposed licenses at the proposed location in which the applicant has an interest; the applicant or licensee shall advise the commission of any change in any management and concession contract; all management and concession contracts must have prior approval of the commission; and 
(9) any other information required by the commission. 
(b) The application must be sworn to by the applicant or, if a corporation or association, by its chief executive officer. 
(c) The application for an original racetrack license must be accompanied by an application fee in the form of a cashier's check or certified check. 
(d) The minimum application fee is $15,000 for a class I racetrack, $7,500 for a class 2 racetrack, and $2,500 for a class 3 racetrack. Using these minimums, the commission by rule shall establish a schedule of application fees for the various types and sizes of racing facilities. 
(e) The burden of proof is on the applicant to show compliance with this Act and rules of the commission. 

Sec. 6.04. ISSUANCE OF LICENSE; BOND. (a) Subject to Article 15 of this Act, the commission may issue a racetrack license to a qualified person if it finds that the conduct of race meetings at the proposed tract and location will be in the public interest, complies with all zoning laws, and complies with this Act and rules adopted by the commission. 
(b) Before issuance of a license under this article, the applicant must give a bond in the sum of $20,000 payable to the state, with a surety or sureties approved by the commission, conditioned on compliance with this Act and rules adopted under this Act. 

Sec. 6.05. CONSTRUCTION NOT TO PRECEDE ISSUANCE. The commission may not issue a racetrack license to a person who has begun construction or preparation of a track or surrounding structures before applying to and receiving from the commission approval to begin construction at a designated site. This restriction does not apply to structures under construction or completed by April 30, 1983. 

Sec. 6.06. RACETRACK LICENSES; GROUNDS FOR DENIAL, REVOCATION, AND SUSPENSION. (a) To preserve and protect the public health, welfare, and safety, the commission shall make rules relating to applications, renewal applications, and the financial responsibility, moral character, and ability of applicants and relating to all things having to do with the plans, construction, and operation of racetracks. The commission may refuse to issue any original or renewal racetrack license or may revoke or suspend the license if it has reasonable grounds to believe and finds that: 
(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or any rule adopted by the commission or aids, abets, or conspires with any person to commit any such violation; 
(2) the applicant has been convicted of a felony or of any crime involving moral turpitude that is reasonably related to his present fitness to hold a license under this Act; 
(3) the applicant has violated or caused to be violated this Act or a rule of the commission that involves moral turpitude, as distinguished from a technical violation of this Act or of a rule; 
(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of him; 
(5) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;
(6) the applicant fails to disclose the true ownership or interest in a horse as required by the rules of the commission;

(7) the applicant is indebted to the state for any fees or payment of penalty imposed by this Act or by rule of the commission;

(8) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;

(9) the applicant has not yet attained the minimum age necessary to purchase alcoholic beverages in this state;

(10) the applicant is in the habit of using alcoholic beverages to excess or is mentally incapacitated;

(11) the applicant is excludable from a track enclosure under Article 12 or 13 of this Act;

(12) the applicant has not been a United States citizen residing in this state for a period of 10 consecutive years immediately preceding the filing of his application;

(13) the applicant has improperly used a license certificate, credential, or identification card issued under this Act;

(14) the applicant is residentially domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of his present application;

(15) the applicant has failed or refused to furnish a true copy of his application to the commission’s district office in the district in which the premises for which the permit is sought are located; or

(16) the applicant is engaged in activities or practices that the commission finds are detrimental to the best interests of the public and the sport of horse racing.

(b) Subsection (a) of this section applies to a corporation or any other organization or group whose application is comprised of more than one person if:

(1) any director, officer, or incorporator is disqualified under Subsection (a) of this section; or

(2) a stockholder, or any member of a group of stockholders acting in concert, having the power to elect or cause the election of a director or officer, is disqualified under Subsection (a) of this section.

(c) A person who is an owner, partner, or member of an association, or a director or stockholder of a corporation, or a person related within the second degree by consanguinity or affinity to a person who is an owner, partner, or member of an association, or a director or stockholder of a corporation, that has any ownership interest in a racetrack may not enter a horse in any race at any racetrack in which he has an interest or wager or cause a wager to be placed at any racetrack in which he has an interest.

(d) A license for operation of a class 1 or class 2 racetrack may not be issued to a corporation unless the corporation is incorporated under the laws of this state and all of the stock of the corporation is owned at all times by individuals who meet the qualifications prescribed by this section for individual applicants.

(e) Partnerships, firms, and associations applying for licenses must be composed wholly of citizens possessing the qualifications enumerated in this section for individual applicants. A corporation holding a license to operate a racetrack under this Act that violates this subsection is subject to forfeiture of its charter, and the attorney general, when any such violation is called to his attention, shall file suit for cancellation of the charter and revocation of the license issued under this Act in a district court of Travis County. Subterfuge in the operation of a racetrack shall be prevented, and this Act shall be liberally construed to carry out this intent.

(f) The commission may condition the issuance of a license on the observance of its rules and may amend the rules at any time and condition the continued holding of the license on compliance with the rules.
A person may not hold an interest in more than two racetracks licensed under this Act.

Sec. 6.07. LEASE. (a) The commission may adopt rules to authorize an association, as lessee, to contract for the lease of a racetrack and the surrounding structures.

(b) The commission may not approve a lease if:

1. it appears that the lease is a subterfuge to evade Section 6.05 or 6.06 of this article;
2. the racetrack and surrounding structures do not conform to the rules adopted under this Act; or
3. the lessee or prospective lessee is disqualified from holding a racetrack license.

Sec. 6.08. RACETRACK SPECIFICATIONS. The commission by rule may determine specifications for racetracks.

Sec. 6.09. DEDUCTION FROM PARI-MUTUEL POOL; ALLOCATION. (a) An association shall deduct from each pari-mutuel pool 16 percent of the amount of the pool, plus breakage, which shall be allocated as follows:

1. six percent of the pool to the state;
2. five percent of the pool to the association as its commission;
3. five percent of the pool for purses; and
4. the breakage for purse supplements, breeders' awards, and stallion awards.

(b) The state's portion of the pool shall be collected by the comptroller immediately after each race.

(c) The breakage shall be retained by the commission in a bank account for distribution for the authorized purposes.

Sec. 6.10. NOT TRANSFERABLE. (a) A racetrack license is not transferable.

(b) In the event of the death of any person whose death causes a violation of the licensing provisions of this Act, the commission may issue a temporary license for a reasonable time under rules adopted by the commission.

Sec. 6.11. FINANCIAL DISCLOSURE. (a) The commission by rule shall require that each association holding a license for a class 1 or class 2 racetrack file with the commission annually a detailed financial statement containing the names and addresses of all stockholders and indicating compliance with Section 6.06 of this article during the filing period and any other information prescribed by the commission.

(b) Every transaction involving an acquisition or a transfer of a pecuniary interest in the association must receive prior approval from the commission.

Sec. 6.12. RACING RESTRICTED TO DESIGNATED PLACE. An association may not conduct horse racing at any place other than the place designated in the license except as provided by this section or Section 6.13 of this article. However, if the racetrack or enclosure designated in the license becomes unsuitable for racing because of fire, flood, or other catastrophe, a race meeting or any remaining portion may be conducted temporarily at any other racetrack or place within the county designated by the commission.

Sec. 6.13. RACING AT TEMPORARY LOCATION. After an association has been granted a license to operate a racetrack and prior to the completion of construction at the designated place for which the license was issued, the commission may, on application by the association, issue a temporary license for the association to conduct races at a location in the same county for a period to expire in two years or on the completion of the permanent facility, whichever occurs first. The commission may set the conditions and standards for issuance of a temporary license and allocation of appropriate race days.
Sec. 6.14. EMPLOYMENT OF FORMER COMMISSION EMPLOYEES. An association may not employ any person who has been a member or an employee employed by the commission in a position in the state employment classification plan of grade 12 or above, or any person related within the second degree by consanguinity or affinity to the member or employee, during the two-year period immediately preceding the employment by the association.

Sec. 6.15. CITY AND COUNTY FEES. (a) A commissioners court may collect a fee not to exceed five percent of the amount paid as admission to a licensed racetrack located within the county. The court may collect an additional fee not to exceed five percent of the amount paid as admission to a licensed racetrack located within the county for allocation among the incorporated cities or towns in the county. The court shall collect the additional fee if requested to do so by the governing bodies of a majority of the incorporated cities and towns in the county. Allocation of the fees shall be based on the population of the cities or towns.

(b) The commissioners court by order may establish procedures for the collection of the fees under Subsection (a) of this section. The procedures may require a person holding a racetrack license to keep records and file reports considered necessary by the commissioners court.

(c) The amount collected by the county pursuant to this section may be used only for the county where the racetrack is located for the purpose of providing the county with funds to enforce the provisions of this Act, including but not limited to hiring investigators, attorneys, staff, and other personnel to assist the county attorney or district attorney in enforcing this Act and enforcing all state laws necessary to ensure the safe operation of each track in that county.

(d) All racetrack operators in the state shall require an admission fee of not less than $3 per person.

ARTICLE 7. OTHER LICENSES

Sec. 7.01. LICENSE REQUIRED. A person may not participate in horse racing with pari-mutuel wagering as regulated by this Act without first obtaining a license from the commission.

Sec. 7.02. LICENSED ACTIVITIES. The horse owners, stewards, trainers, horse jockeys, apprentice jockeys, jockey agents, horseshoe inspectors, placing judges, patrol judges, horse identifiers, starters, veterinarians, horseshoers, stable foremen, stable agents, exercise boys, valets, grooms, pari-mutuel employees, concessionaires, and all other persons involved in any capacity with horse racing with pari-mutuel wagering, other than as spectators, as regulated by this Act, are subject to the licensing provisions of this article.

Sec. 7.03. ISSUANCE. The commission shall issue a license to a qualified person on application and payment of the license fee.

Sec. 7.04. LICENSES; GROUNDS FOR DENIAL, REVOCATION, AND SUSPENSION. The commission, after notice and hearing, may refuse to issue any original or renewal license under this article or may revoke or suspend the license if it has reasonable grounds to believe and finds that:

(1) the applicant has been convicted in a court of competent jurisdiction of a violation of this Act or any rule adopted by the commission or aids, abets, or conspires with any person to commit any such violation;

(2) the applicant has been convicted of a felony or of any crime involving moral turpitude that is reasonably related to his present fitness to hold a license under this Act;

(3) the applicant has violated or caused to be violated this Act or a rule of the commission that involves moral turpitude, as distinguished from a technical violation of this Act or of a rule;

(4) the applicant is unqualified, by experience or otherwise, to perform the duties required of him;
(5) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;
(6) the applicant fails to disclose the true ownership or interest in a horse as required by the rules of the commission;
(7) the applicant is indebted to the state for any fees or payment of penalty imposed by this Act or by rule of the commission;
(8) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;
(9) the applicant is in the habit of using alcoholic beverages to excess or is mentally incapacitated;
(10) the applicant is excludable from a track enclosure under Article 12 or 13 of this Act;
(11) the commission determines that the applicant has improperly used a license certificate, credential, or identification card issued under this Act;
(12) the applicant is residually domiciled with a person whose license has been revoked for cause within the 12 months immediately preceding the date of his present application;
(13) the applicant has failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises for which the permit is sought are located; or
(14) the applicant is engaged in activities or practices that are detrimental to the best interests of the public and the sport of horse racing.

Sec. 7.05. LICENSE FEES. The commission shall by rule prescribe a fee schedule for licenses issued under this article based on the relative or comparative incomes or property interests of the various categories of licensees, with the lower income category of licensees being charged nearer the minimum fee and the higher income category of licensees charged nearer the maximum fee.

Sec. 7.06. FORM OF LICENSE. The commission shall issue a license certificate under this article in the form of an identification card with photograph and fingerprints.

Sec. 7.07. TERM OF LICENSE. A license issued under this article is valid during the calendar year for which it is issued. It is renewable on application and payment of the fee in accordance with the rules of the commission.

Sec. 7.08. VALID THROUGHOUT STATE. A license issued under this article is valid at all race meetings conducted in this state.

Sec. 7.09. TEMPORARY LICENSES. Pending investigation of an applicant's qualifications to receive an original or renewal license, the commission may issue a temporary license to an applicant under this article whose application appears to comply with the requirements of law and who has paid the necessary fee. The temporary license is valid for a period not to exceed 90 days from the date of issuance.

ARTICLE 8. ALLOCATION OF RACING DAYS

Sec. 8.01. ALLOCATION. The commission shall allocate the racing days for the conduct of racing at each racetrack licensed under this Act. An equal number of race days shall be allocated for both Thoroughbred and quarter horse races. Races may not be conducted under this Act on Sunday if so determined by the commission.

Sec. 8.02. CHARITY DAYS. The commission by rule may grant not more than five additional days of racing, to be conducted as charity days, to each association during any race meeting.

ARTICLE 9. HORSE REGISTRATION; RACING

Sec. 9.01. TEXAS-BRED HORSES. The state breed registry shall make reasonable rules to establish the qualifications of accredited Texas-bred horses to promote, develop, and improve the breeding of horses in this state.
Sec. 9.02. BREED REGISTRIES. The officially designated state breed registries for accredited Texas-bred horses are the Texas Thoroughbred Breeders Association for Thoroughbred horses and the Texas Quarter Horse Association for quarter horses. Others shall be determined by the commission with the advice of the national breed registry.

Sec. 9.03. TEXAS-BRED RACE. An association shall provide for the running of races limited to accredited Texas-bred horses, each to be known as a Texas-bred race. On every racing day, an association shall provide for the running of at least two races limited to accredited Texas-bred horses. However, if on any day not enough starters are entered in this class to provide sufficient competition, an association may with the approval of the commission eliminate those races and provide substitute races. Any Texas-bred horse that is eligible under the conditions of the substitute race shall be preferred. To encourage the breeding of horses in this state, any accredited Texas-bred horse finishing first, second, or third in a Texas-bred race shall receive a purse supplement.

Sec. 9.04. TEXAS BREEDERS’ AWARDS. Because one of the purposes of this Act is to encourage agriculture and the horse-breeding industry, when an accredited Texas-bred horse finishes first, second, or third in any Texas-bred race or first in a race other than a Texas-bred race, the breeder shall receive a sum, not to be deducted from the purse, equal to 10 percent of the earned portion of the purse, excluding stakes, to be distributed as determined by the state breed registry; and the owner of the stallions whose get finish first, second, or third in any Texas-bred race or first in a race other than a Texas-bred race shall receive a sum equal to two percent of the earned portion of the purse, excluding stakes, to be distributed as determined by the state breed registry. The state breed registry shall maintain and supply complete records showing awards earned, received, and distributed.

Sec. 9.05. FUNDS FOR AWARDS. Funds for the awards and purse supplements shall be derived from the breakage described by Subdivision (4) of Subsection (a) of Section 6.09 of this Act.

Sec. 9.06. TYPES OF RACING. When an association runs both quarter horse and Thoroughbred races at one track, the number of races to be run by each breed shall be equal. The commission may by rule or by decision allow for exceptions if not enough horses of either breed are stabled on the grounds of a racetrack to provide sufficient competition.

Sec. 9.07. STABLING. If an association conducts quarter horse and Thoroughbred racing on the same days, it shall provide stalls on an equitable basis as provided by rule of the commission.

Sec. 9.08. SECURITY. The association shall provide security at its track that is considered by the commission to be equivalent or superior to that provided by the Thoroughbred Racing and Protective Bureau.

ARTICLE 10. WAGERING

Sec. 10.01. PARI-MUTUEL WAGERING; RULES. The commission shall adopt rules to regulate wagering on horse races under the system known as pari-mutuel wagering. Wagering may be conducted only by an association within its enclosure during a race meeting. The stewards employed by the commission are peace officers, and their primary duty is the enforcement of this Act. Each steward as a peace officer is authorized to enforce any penal provision of law while in the course of his employment, if he is in, on, or about any horse racing enclosure licensed under this Act. The commission’s rules adopted under this section and this Act shall be written and updated to ensure their maximum enforceability within existing constitutional guidelines.

Sec. 10.02. TOTALIZATOR. The wagering may be operated only by a totalizator or other mechanical equipment approved by the commission. The commission may not require a particular make of mechanical equipment.
Sec. 10.03. INFORMATION ON TICKET. The commission shall by rule prescribe the information to be printed on each pari-mutuel ticket.

Sec. 10.04. WAGERING INSIDE ENCLOSURE. Only a person inside the enclosure where a race meeting is authorized may wager on the result of a horse race held at that meeting by contributing his money to the pari-mutuel pool operated by the association. The commission shall adopt rules to prohibit wagering by employees of the commission and regulate wagering by persons licensed under this Act.

Sec. 10.05. UNLAWFUL WAGERING. A person may not wager on the result of a horse race in this state except as permitted by this Act.

Sec. 10.06. MINORS. The commission shall adopt rules to prevent wagering by persons who have not yet attained the minimum age required to purchase alcoholic beverages in this state and to prevent persons under 16 years of age from entering the viewing section of a racetrack unless accompanied by the person's parent or legal guardian.

Sec. 10.07. CLAIM AFTER RACE MEETING. (a) A person who claims to be entitled to any part of a redistribution from a pari-mutuel pool and who fails to claim the money due him prior to the completion of the race meeting at which the pool was formed may, not later than the 60th day after the closing day of the meeting, file the following with the commission:

1. a verified claim on a form prescribed by the commission; and
2. a substantial portion of the pari-mutuel ticket sufficient to identify the association, race, and horse involved and sufficient to show the amount wagered and the type of ticket (win, place, or show).

(b) If the claimant satisfactorily establishes his right to redistribution from the pool, the commission shall order the association to pay the amount due the claimant.

Sec. 10.08. REDISTRIBUTABLE MONEY NOT CLAIMED. Not later than the 90th day after the closing day of a race meeting, an association shall pay to the commission all redistributable money in a pari-mutuel pool that is subject to payment to a claimant under Section 10.07 of this Act but that is not successfully claimed.

Sec. 10.09. NO LIABILITY TO PROSECUTION. A person lawfully conducting or participating in the conduct of pari-mutuel wagering in connection with horse racing or permitting the conduct on any premises owned or leased by him or it under any license lawfully issued under this Act is not liable to prosecution.

Sec. 10.10. EXOTIC WAGERING PROHIBITED. The commission shall prohibit exotic wagering. Exotic wagering is defined as wagering that relates to the position or finish of more than three horses in any one race.

ARTICLE 11. FAIRS, STOCK SHOWS, AND EXPOSITIONS

Sec. 11.01. COUNTY STOCK SHOWS. Subject to the licensing requirements and other provisions of this Act, a county may conduct an annual race meeting, not to exceed 14 racing days, in connection with a livestock show or exhibit that is held under Chapter 20, Acts of the 43rd Legislature, 4th Called Session, 1934 (Article 2372d, Vernon's Texas Civil Statutes), or Chapter 411, Acts of the 51st Legislature, Regular Session, 1949 (Article 2372d-2, Vernon's Texas Civil Statutes). The race meetings may be conducted by an agent selected by the commissioners court under Chapter 49, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372d-3, Vernon's Texas Civil Statutes), if the agent is qualified to hold a license under this Act.

Sec. 11.02. FAIRS. Subject to the licensing requirements and other provisions of this Act, a nonprofit corporation organized under Subdivision 7, Article 1302, Revised Statutes, or organized under the Texas Non-Profit
Corporation Act (Article 1396-1.01 et seq., Vernon’s Texas Civil Statutes), for the same purposes may conduct a race meeting, not to exceed 14 racing days.

ARTICLE 12. EXCLUSION OR EJECTION FROM RACETRACK

Sec. 12.01. COMMISSION SHALL REGULATE. The commission shall adopt rules providing for the exclusion or ejection from an enclosure where horse races are conducted, or from specified portions of an enclosure, of a person:

(1) who has engaged in bookmaking, touting, or illegal wagering;
(2) whose income is from illegal activities or enterprises;
(3) who has been convicted of a violation of this Act;
(4) who has been convicted of theft;
(5) who has been convicted under the penal law of another jurisdiction for the commission of an act that would have constituted a violation of any of the laws mentioned in this section;
(6) who has committed a corrupt or fraudulent act in connection with horse racing or pari-mutuel wagering or who has committed any act tending or intended to corrupt horse racing or pari-mutuel wagering in this state or elsewhere;
(7) who is under suspension or ruled off of a racetrack by the commission or a steward in this state or by a corresponding authority in another state because of fraudulent or corrupt practices or other acts detrimental to racing;
(8) who has submitted a forged pari-mutuel ticket or has altered or forged a pari-mutuel ticket for encashment or who has cashed or caused to be cashed an altered, raised, or forged pari-mutuel ticket;
(9) who has been convicted of committing a lewd or lascivious act or other crime involving moral turpitude;
(10) who is guilty of boisterous or disorderly conduct while inside a racing enclosure;
(11) who is an agent or habitual associate of a person excludable under this section; or
(12) who has been convicted of a felony.

Sec. 12.02. HEARING; APPEAL—EXCLUSION OR EXPULSION FROM AN ENCLOSURE. (a) A person who is excluded or ejected from an enclosure under a rule of the commission may apply to the commission for a hearing on the question of the applicability of the rule to that person.
(b) The commission shall hold the hearing not later than the 10th day after receipt of the application or at another time and place agreed on by the applicant and the commission.
(c) If the commission determines that the rule does not or should not apply to the applicant, it shall make and enter an order to that effect in its minutes and shall notify each association of that fact. If the commission determines that the exclusion or ejection was proper under the rules, it shall make and enter an order to that effect in its minutes, and the person shall continue to be excluded from each association.
(d) The applicant may appeal an adverse decision of the commission by filing not later than the 30th day after the date of the decision a petition to set aside the decision in a district court of the county of his residence or in Travis County. The appeal is by trial de novo as that term is used in appeals from a justice court to a county court.
(e) The judgment of the court may be appealed as in other civil cases. The person appealing the commission’s ruling under this article shall continue to be excluded from all enclosures in this state during the pendency of the appeal.

Sec. 12.03. ENTRY AFTER EJECTION. (a) A person who has been excluded or ejected from an enclosure under this article commits an offense if the person knowingly enters an enclosure of the same or other licensed racetrack unless
the commission or a final judgment of a court has ordered that the rule does not apply to the person.

(b) An offense under this section is a Class A misdemeanor.

(c) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

ARTICLE 13. TOUTING AND OTHER OFFENSES

Sec. 13.01. TOUTING. (a) A person commits an offense if the person conveys or offers to convey false information about a horse race to others for compensation.

(b) Except as provided by Subsection (c) of this section, an offense under this section is a felony of the third degree.

(c) An offense under this section is a felony of the second degree if:

(1) the actor knowingly represents that an official or employee of the commission or of an association or an owner, trainer, jockey, or other person licensed by the commission is the source of his information; or

(2) the actor previously has been finally convicted of an offense under this section; probation and deferred adjudication constitute a final conviction.

(4) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

Sec. 13.02. UNLAWFUL USE OF CREDENTIAL. (a) A person commits an offense if the person displays a license or credential that has been issued or purported to have been issued by the commission and represents that the person is the holder of the license or credential when the person knows that the license or credential is not issued to the person or if the person impersonates in any way a person holding a license or credential issued by the commission.

(b) An offense under this section is a felony of the third degree.

(c) The provisions of Section 7.22, Penal Code, imposing criminal responsibility on a corporation or association for an offense committed by its agent apply to conduct constituting an offense under this section that is performed by an agent of a corporation or association.

Sec. 13.03. ILLEGAL INFLUENCE OF RACE OUTCOME. (a) The commission shall adopt rules prohibiting the illegal influencing of the outcome of a race, including but not limited to the use of medication, stimulants, or depressants to attempt to or to influence illegally the outcome of a race.

(b) The commission may require both prerace and postrace testing by either urinalysis or saliva testing or blood testing or any combination of the three to determine whether any such drug, chemical, or other substance has been administered, and on any positive test showing the presence of prohibited drugs, chemicals, or other substances, the horse shall be immediately disqualified and all persons who have so administered or applied such drug, chemical, or other substance, or any such electric device or spur, may be immediately suspended pending hearing by the stewards, with the right of appeal to the commission. Such suspension may be stayed, in the discretion of the commission only, during the pendency of such appeal.

(c) The official licensed trainer of each such horse is deemed by law to be the absolute insurer that no prohibited drug, chemical, or other substance has been administered and shall be responsible to see that no such drug, chemical, or other substance is administered.

(d) All jockeys and apprentice jockeys, by applying for license under this Act, consent to both prerace and postrace search for the purpose of determining the
presence of any such drug, chemical, or other substance whatsoever, or any electrical device or other device that might have the effect of unnaturally depressing, stimulating, or exciting any horse during any race.

(e) A person who knowingly violates a rule adopted under this section may be barred for a time determined by the commission or for life from receiving any license under this Act or may be barred for a time determined by the commission or for life from any premises licensed under this Act, or both.

(f) A person who knowingly violates a rule adopted under this section commits a felony of the third degree for the first offense and a felony of the second degree for a second or subsequent offense.

ARTICLE 14. GENERAL PENALTY PROVISIONS

Sec. 14.01. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this Act for which a specific penalty is not provided.

(b) An offense under this section is a felony of the third degree.

Sec. 14.02. PERSON DEFINED. In each section of this Act prescribing a criminal offense, "person" has the meaning assigned by the Penal Code.

ARTICLE 15. LOCAL OPTION ELECTION

Sec. 15.01. CONDITION PRECEDENT. The commission may not issue a racetrack license or accept an application for a license for a racetrack to be located in a county until the commissioners court has certified to the commission that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races in the county at an election held under this article.

Sec. 15.02. METHODS FOR INITIATING ELECTION. The commissioners court on its own motion by a majority vote of its members may order an election to approve the legalization of pari-mutuel wagering on horse races, and it shall order an election on presentation of a petition meeting the requirements of this article.

Sec. 15.03. APPLICATION FOR PETITION; ISSUANCE. If petitioned to do so by written application of 10 or more registered voters of the county, the county clerk shall issue to the applicants a petition to be circulated among registered voters for their signatures.

Sec. 15.04. CONTENTS OF APPLICATION. To be valid, an application must contain:

(1) a heading, in the following words: "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races";

(2) a statement of the issue to be voted on, in the following words: "Legalizing pari-mutuel wagering on horse races in __________ County";

(3) a statement immediately above the signatures of the applicants, reading as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races be legalized in __________ County"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Sec. 15.05. CONTENTS OF PETITION. To be valid, a petition must contain:

(1) a heading, in the following words: "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races";

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, reading as follows: "It is the hope, purpose, and intent of the petitioners whose signatures
appear below that pari-mutuel wagering on horse races be legalized in ________ County;

(4) lines and spaces for the names, signatures, addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

Sec. 15.06. COPIES. The county clerk shall keep the application and a copy of the petition in his files. He shall issue to the applicants as many copies as they request.

Sec. 15.07. FILING OF PETITION; NUMBER OF SIGNATURES. To form the basis for the ordering of an election, the petition must be filed with the county clerk not later than the 30th day after the date of its issuance, and it must contain a number of signatures of registered voters of the county equal to five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

Sec. 15.08. REVIEW BY COUNTY CLERK. (a) The county clerk shall, on request of any person, check each name on the petition to determine whether the signer is a registered voter of the county. The person requesting this verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name prior to commencement of the verification.

(b) The county clerk may not count a signature:

(1) if the residence address of the signer is not shown;

(2) if the signature is not accompanied by the proper voter registration certificate number;

(3) if the name does not appear exactly as the name of the voter appears on the official copy of the current list of registered voters; or

(4) if there is reason to believe that it is not the actual signature of the purported signer, that it is a duplication of another name on the petition, or that it is in the same handwriting as another signature on the petition.

Sec. 15.09. CERTIFICATION. Not later than the 40th day after the date the petition is filed, excluding Saturdays, Sundays, and legal holidays, the county clerk shall certify to the commissioners court the number of registered voters signing the petition.

Sec. 15.10. ORDER OF ELECTION. (a) The commissioners court shall record on its minutes the date the petition is filed and the date it is certified by the county clerk.

(b) If the petition contains the required number of signatures and is in proper order, the commissioners court shall, at its next regular session after the certification by the county clerk, order an election to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 9b, Texas Election Code (Article 2.01b, Vernon’s Texas Election Code), that occurs at least 20 days after the date of the order. The commissioners court shall state in the order the issue to be voted on in the election. The order is prima facie evidence that all provisions necessary to give it validity have been complied with.

Sec. 15.11. APPLICATION OF ELECTION CODE. (a) The election shall be held and the returns and canvass made in conformity with the Texas Election Code.

(b) The ballots shall be printed to permit voting for or against the proposition: “Legalizing pari-mutuel wagering on horse races in ________ County.”

Sec. 15.12. RESULTS OF ELECTION. (a) If a majority of the votes cast in the election are for the legalization of pari-mutuel wagering on horse races in the county, the commissioners court shall certify that fact to the commission not later than the 10th day after the date of the canvass of the returns.
Sec. 15.13. CONTEST OF ELECTION. (a) Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county. Any person who is licensed or who has made application to the commission to be licensed in any capacity under this Act may become a named party to the proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Subsection (c) of this section or thereafter by intervention on leave of court.

(b) The proceedings in the suit shall be conducted in the manner prescribed by Chapter 9, Texas Election Code (Article 9.01 et seq., Vernon's Texas Election Code), for contesting an election held for a purpose other than the election of an officer or officers. Unless otherwise provided by this Act, the applicable Texas Rules of Civil Procedure and all applicable statutes govern the proceedings and appeals held and conducted pursuant to this Act.

(c) At or after the time for hearing and trial, the judge shall proceed to hear and determine all questions of law and fact in the proceedings and may enter orders as to the proceedings that will enable him properly to try and determine the questions and to render a final judgment with the least possible delay.

Sec. 15.14. CONTEST OF ELECTION; BOND. At any time prior to the entry of a final judgment in the proceedings, any party may ask the court to dismiss the contestant's action unless the contestant posts a bond with sufficient surety, approved by the court, payable to the movant for the payment of all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to finally prevail and obtain substantially the judgment prayed for in the petition. The court shall then issue an order directed to the contestant, which order, together with a copy of the motion, shall be served on all parties, or on their attorney of record, personally or by registered mail, requiring the contestant to appear at the time and place, not sooner than five nor later than 10 days after receipt of the order and motion, as the court may direct, and show cause why the motion should not be granted. The maximum bond that the court has authority to set is $10,000 for contests of elections for tracks to be located in a county with a population of less than 900,000, according to the most recent federal census. The maximum bond that the court has authority to set is $100,000 for contests of elections for tracks to be located in a county with a population of 900,000 or more, according to the most recent federal census. Motions with respect to more than one contestant may be heard together if so directed by the court. Unless at the hearing on the motion the contestant establishes facts that in the judgment of the court would entitle the contestant to a temporary injunction against the issuance of licenses on the basis of the election in question, the court shall grant the motion of the movant and in its order the court shall fix the amount of the bond to be posted by the contestant in an amount found by the court to be sufficient to cover all damages and costs that may accrue by reason of the delay that will be occasioned by the continued participation of the contestant in the proceedings in the event that the contestant fails to prevail and obtain substantially the judgment prayed for in its petition.

Sec. 15.15. CONTEST OF ELECTION; APPEAL. Any party to the cause who is dissatisfied with any order or judgment entered pursuant to Section 15.13 of this Act may appeal to the appropriate court of appeals after the entry of the order or judgment; otherwise the order or judgment becomes final. If no suit is instituted within 30 days after the result of the election is declared, it is presumed that the election is valid. Any appeal has priority over all other cases, causes, or matters pending in the court of appeals, except habeas corpus, and the court of appeals shall assure the priority and act on the matter and render its final order or judgment with
the least possible delay. The supreme court may review by writ of error or other authorized procedure all questions of law arising out of the orders and judgments of the court of appeals in the manner, time, and form applicable in other civil causes in which a decision of the court of appeals is not final, but the review has priority over all other cases, causes, or matters pending in the supreme court, except habeas corpus, and the supreme court shall assure the priority and review and act on the matter and render its final order or judgment with the least possible delay.

Sec. 15.16. SUIT TO HAVE PRECEDENCE. The court shall accelerate the disposition of any action brought under this Act.

Sec. 15.17. CONTESTEE. (a) The county attorney is the contestant of a suit brought under Section 15.13 of this Act. If there is no county attorney of the county, then the criminal district attorney or district attorney is the contestant. Notice and statement shall be served on the contestant, and he shall serve his reply, as required by Chapter 9, Texas Election Code (Article 9.01 et seq., Vernon's Texas Election Code).

(b) Costs of the election contest may not be adjudged against the contestant or against the county, and neither may be required to give bond on appeal.

Sec. 15.18. ELECTION TO PROHIBIT PARI-MUTUEL WAGERING ON HORSE RACES. In any county in which the commission has issued a racetrack license, an election may be held for the purpose of prohibiting pari-mutuel wagering on horse races in the county after three years have elapsed since the date of the election approving legalization of pari-mutuel wagering. A prohibition election may be ordered only on presentation of a petition seeking the election. Except as provided by Sections 15.19 and 15.20 of this Act, the provisions of Sections 15.03 through 15.11 and 15.13 through 15.17 of this Act apply to elections held under this section.

Sec. 15.19. APPLICATION. The application for the petition must contain:

(1) a heading, in the following words: "Application for a Petition for a Local Option Election to Prohibit Pari-mutuel Wagering on Horse Races";

(2) a statement of the issue to be voted on in the following words: "Prohibiting pari-mutuel wagering on horse races in ________ County";

(3) a statement immediately above the signatures of the applicants, reading: "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races in ________ County be prohibited"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Sec. 15.20. PETITION; BALLOT PROPOSITION. (a) The petition must contain:

(1) a heading, in the following words: "Petition for a Local Option Election to Prohibit Pari-mutuel Wagering on Horse Races";

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, reading as follows: "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on horse races in ________ County be prohibited"; and

(4) the items specified by Subdivisions (4) and (5) of Section 15.05 of this Act.

(b) The ballots for a prohibition election shall be printed to permit voting for or against the proposition: "Prohibiting pari-mutuel wagering on horse races in ________ County."

Sec. 15.21. ELECTION RESULTS. (a) If a majority of the votes cast in the election are for the prohibition of pari-mutuel wagering on horse races, the
commissioners court shall certify that fact to the commission not later than the 10th day after the date of the canvass of the returns.

(b) If the prohibition proposition fails to carry, then no election may be held on the same issue until five years have elapsed since the date of the election.

Sec. 15.22. SUSPENSION. (a) On receiving the commissioners court’s certification under Subsection (a) of Section 15.21 of this Act, the commission shall order the licenses for racetracks in the county suspended. The suspension takes effect on January 1 immediately following each track’s first full annual racing season after the date of the election and continues for one year and then until reissuance pursuant to an election held under Section 15.23 of this Act.

(b) During the suspension period, the commission may not license any person to operate a racetrack in the county.

Sec. 15.23. ELECTION FOR LEGALIZATION FOLLOWING PROHIBITION. (a) If licenses for racetracks in a county have been suspended under Section 15.22 of this Act, an election may be held to approve legalization of pari-mutuel wagering on horse races, subject to this section.

(b) The election may not be held during the one-year suspension period.

(c) The election may be ordered only on presentation of a petition seeking the election.

(d) The election is governed by Sections 15.03 through 15.17 of this Act.

Sec. 15.24. REISSUANCE. If the election favors legalization, the commission may issue licenses to the same or different licensees.

ARTICLE 16. REFERENDUM

Sec. 16.01. ELECTION. A proposal shall be submitted to the voters at an election to be held November 6, 1984. No county local option election may be held under this Act unless the statewide referendum has passed. The ballot shall be printed to provide for voting for or against the proposition: “Regulating pari-mutuel wagering on horse races on a county-by-county local option basis pursuant to the Texas Horse Racing Act.” The proposal is an “other question” within the meaning of Section 63, Texas Election Code (Article 6.07, Vernon’s Texas Election Code), and the election shall be conducted in the manner prescribed for an election on proposed constitutional amendments, including the drawing for ballot position, publication, printing of ballots, designation of polling places, voting, counting ballots, and reporting, canvassing, and publication of the returns.

Sec. 16.02. EFFECT OF ELECTION. This Act may not be implemented and funds appropriated for its administration may not be expended unless the statewide referendum has passed. If the statewide referendum fails, this Act expires on the date the official results are declared.

ARTICLE 17. MISCELLANEOUS PROVISIONS

Sec. 17.01. POWERS OF COMMISSION. Applications for licenses may not be accepted and licenses may not be issued under this Act before the date the official results are declared for the referendum held under Section 16.01 of this Act.

Sec. 17.02. APPLICATION OF SUNSET ACT. The Texas Horse Racing Commission is subject to the Texas Sunset Act (Article 5429k, Vernon’s Texas Civil Statutes). Unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1995.

Sec. 17.03. APPLICATION OF ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. Except as otherwise provided by this Act, the commission rules and orders are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes).

SECTION 2. Chapter 47, Penal Code, is amended by adding Section 47.11 to read as follows:

Sec. 47.11. PARI-MUTUEL WAGERING ON HORSE RACES. It is a defense to prosecution for an offense under this chapter that the conduct was authorized under the Texas Horse Racing 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.

CSSB 440 was read second time.

Representative Tejeda moved to table CSSB 440.

The vote of the house was taken on the motion to table CSSB 440 and the vote was announced yeas 72, nays 74.

A verification of the vote was requested and was granted.

The roll of those voting nay and yea was again called.

Speaker Lewis stated that Representatives Fox, Willis, and E. Barton notified the chair that they voted yea and their machines did not register the vote. The speaker ordered that Representatives Fox, Willis, and E. Barton be recorded as voting yea.

Representative Wilson raised a point of order against recording the yea votes on the grounds that the votes were not timely.

The speaker overruled the point of order.

The verified vote resulted, as follows (Record 431): 75 Yeas, 73 Nays, 1 Present, not voting.

Yeas — Aglich; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cervera; Clark; Clemons; Collazo; Connelly; Coody; Craddick; DeLay; Denton; Edwards; Eikenburg; Emmett; English; Finnell; Fox; Gavin; Gibson, B.; Granoff; Green; Grisham; Haley; Hall, L.; Hammond; Hanna; Hellin; Hightower; Hill, A.; Hill, G.; Hollowell; Hudson, D.; Jackson; Jones; Khoury; Kubiak; Laney; Leonard; McKenna; McWilliams; Messenger; Patterson; Pennington; Peveto; Polk; Presnal; Price; Robnett; Rudd; Schluter; Shaw; Shea; Short; Simpson; Smith, C.; Staniswalis; Stiles; Tejeda; Thompson, G.; Toomey; Turner; Uber; Waldrop; Whaley; Wieting; Willis; Wolens; Word.

Nays — Armbrister; Arnold; Barrientos; Barton, B.; Berlanga; Cary; Cavazos; Colbert; Criss; Crockett; Danburg; Davis; Delco; Eckels; Evans, C.; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Geisweidt; Gibson, J.; Gilley; Glossbrenner; Hackney; Hall, T.; Hall, W.; Harrison, D.; Harrison, W.; Hernandez; Hiltbert; Hill, P.; Hinojosa; Horn; Hury; Keller; Kemp; Kuempel; Lee, D.; Lee, E. F.; Luna; Madla; Mankins; Martinez, R.; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pierce; Polumbo; Ragsdale; Rangel; Robinson; Russell; Salinas; Saunders; Schoelcraft; Smith, A.; Smith, T.; Sutton; Thompson, S.; Tow; Valles; Vowell; Wallace; Watson; Wilson; Wright.

Present, not voting — Mr. Speaker(C).

Absent — Hudson, S.

The speaker stated that the motion to table prevailed by the above vote.
Reasons for Votes

I voted against CSSB 440 because in the event the confirming referendum is found to be unconstitutional, pari-mutuel wagering would be legalized without a vote of the citizens.

Carriker

I voted against the motion to table CSSB 440 for the reason that no amendments would have been heard and debate on the floor would not have been possible. I have a campaign position against the bill and would have voted no on the merits.

Arnold

I voted against the motion to table CSSB 440 because I wanted to hear the full debate on this issue as well as to hear the debate on the amendments which were to be offered. In the event a final vote had been taken on this issue, I would have voted “No” without any hesitation or reservation whatsoever as I have so indicated for months.

Russell
Keller
Gandy

MESSAGE FROM THE SENATE

Austin, Texas, May 18, 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:

HCR 254 by Denton, commending the Salvation Army and declaring June 12, 1983, as Texas Salvation Army Day.

HB 872 by Moreno of Hidalgo, et al., relating to the requirements for obtaining a certificate of title to a vehicle that has not been previously registered or titled in any state.

CSHB 1618 by Salinas, relating to bond requirements for certain alcoholic beverage permittees and licensees.

Respectfully,
Betty King
Secretary of the Senate

SB 864 ON SECOND READING
(Leonard - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 864.

CSSB 864

A BILL TO BE ENTITLED
AN ACT
relating to attorney's fees in certain workers' compensation death cases; amending Section 8, Article 8306, Revised Statutes, as amended.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 8, Article 8306, Revised Statutes, as amended, is amended to read as follows:

"Section 8. DEATH BENEFIT. (a) If death results from the injury, the association shall pay the legal beneficiaries of the deceased employee a weekly payment equal to sixty-six and two-thirds per cent (66-2/3%) of the employee's average weekly wage, but not less than the minimum weekly benefit nor more than the maximum weekly benefit set forth in Section 29 of this article.

"(b) The weekly benefits payable to the widow or widower of a deceased employee shall be continued until the death or remarriage of the beneficiary. In the event of remarriage a lump sum payment equal in amount to the benefits due for a period of two (2) years shall be paid to the widow or widower. The weekly benefits payable to a child shall be continued until the child reaches eighteen (18) years of age, or beyond such age if actually dependent, or until twenty-five (25) years of age if enrolled as a full-time student in any accredited educational institution. All other legal beneficiaries are entitled to weekly benefits for a period of three hundred and sixty (360) weeks.

"(c) Upon the termination of the eligibility of any child to receive benefits, the portion of compensation paid to such child shall thereafter be paid to any remaining child or children entitled to benefits under the provisions of this Act. If there is no other eligible child then such benefits shall be added to those being paid to the surviving spouse entitled to receive benefits under the provisions of this Act.

"(d) The benefits payable to a widow, widower, or children under this section shall not be paid in a lump sum except in events of remarriage or in case of bona fide disputes as to the liability of the association for the death. Any settlement of a disputed case shall be approved by the board or court only upon an express finding that a bona fide dispute exists as to such liability. If the association fails to admit liability prior to the final award, decision or ruling of the Board, or disputes liability subsequent to such award, decision or ruling, the Court shall award reasonable attorney's fees, in a lump sum, not to exceed 25% of the recovery.

"Upon settlement of all cases where the carrier admits liability for the death but a dispute exists as to the proper beneficiary or beneficiaries, the settlement shall be paid in periodic payments as provided by the law, with a reasonable attorney's fee not to exceed twenty-five per cent (25%) of the settlement. The attorney's fee shall be paid periodically and not in a lump sum."

SECTION 2. This Act applies to all suits instituted 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.

CSSB 864 was read second time and was passed to third reading.

SB 1131 ON SECOND READING
(A. Smith - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 1131, A bill to be entitled An Act relating to life insurance company separate accounts and to contracts providing benefits in variable amounts; adding Article 3.75 to Chapter 3, Insurance Code and repealing Articles 3.39, 3.72, and 3.73; and providing for the extent of application of the Insurance Code to separate accounts and contracts relating to separate accounts.
The bill was read second time.

Representative A. Smith offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 1131 on page 3, line 5 by deleting "of" between the words "reserves" and "other" and inserting in lieu thereof "and".

Committee Amendment No. 1 was adopted without objection.

SB 1131, as amended, was passed to third reading.

SB 1180 ON SECOND READING
(Russell - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 1180, A bill to be entitled An Act relating to the repeal of the state law providing that no person other than an elector resident may be appointed to any office by the governing body of a general law city; repealing Article I 003, Revised Statutes, as amended.

The bill was read second time and was passed to third reading.

SB 1034 ON SECOND READING
(Robinson - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 1034, A bill to be entitled An Act relating to the collection of special expenses by an incorporated city, town, or village; amending Article 45.06i, Code of Criminal Procedure, 1965.

The bill was read second time and was passed to third reading.

SB 7 - POSTPONED

Representative Bush moved that consideration of SB 7 be postponed until Friday, May 20, at 11 a.m.

The motion prevailed without objection.

SB 1298 ON SECOND READING
(Patterson - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 1298, A bill to be entitled An Act relating to fees collected by the Department of Agriculture; amending the Agriculture Code by amending Subsections (c), (d), (g), (h), and (i), Section 13.115; Subsection (b), Section 14.005; Subsection (c), Section 16.002; Subsection (c), Section 51.023; Subsection (a), Section 76.044; Section 101.006; Section 102.006; Subsection (c), Section 132.026; Subsection (c), Section 132.027; and Section 132.028.

The bill was read second time and was passed to third reading. (Carriker recorded voting no)
SB 860 ON SECOND READING  
(Willis - House Sponsor)  
The speaker laid before the house on its second reading and passage to third  
reading, the complete committee substitute for SB 860.  
CSSB 860  
A BILL TO BE ENTITLED  
AN ACT  
relating to membership in and benefits from the Employees Retirement System of  
Texas for elected class service.  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1.  Section 22.201, Title 110B, Revised Statutes, is amended by  
amending Subsection (a) and adding Subsection (c) to read as follows:  
(a) Except as provided by Subsection (c) of this section, a retiree may not  
rejoin the retirement system as a member of the class from which the person retired.  
(c) A person who is retired from the elected class of membership and who  
holds a position included in that class may elect to become a member by filing notice  
with the retirement system before December 31, 1983. Membership begins on the  
date notice is filed, and the member may establish credit as provided by Section  
23.402 of this subtitle. When benefit payments are resumed, the retirement system  
shall recompute the annuity selected at the time of the person’s original retirement  
to include the additional service established during membership under this  
subsection.  
SECTION 2.  Section 22.203, Title 110B, Revised Statutes, is amended by  
adding Subsection (e) to read as follows:  
(e) If a member who originally retired before January 1, 1975, with service  
credited at the time of that retirement only in the elected class of membership again  
retires, the person at the time of subsequent retirement may select an annuity based  
on service in the elected class as if the person were retiring for the first time. If the  
person selects an annuity under Section 24.108(c)(3) or (c)(4) of this subtitle, the  
retirement system shall reduce the number of months of guaranteed payment by the  
number of months for which an annuity was paid under the person’s original  
retirement.  
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.  
(Messer in the chair)  
CSSB 860 was read second time and was passed to third reading. (Ceverha,  
Eckels, Finnell, and Blanton recorded voting no)  
SB 22 ON SECOND READING  
(Criss - House Sponsor)  
The speaker laid before the house on its second reading and passage to third  
reading,  
SB 22, A bill to be entitled An Act relating to creation of the criminal offense  
of possession, manufacture, transportation, repair, or sale of armor-piercing  
ammunition; amending the Penal Code, as amended, by adding Subdivision (12)  
to Section 46.01 and amending Subsections (a) and (d), Section 46.06.  
The bill was read second time.
Representative Criss offered the following amendment to the bill:

Amend SB 22 as follows:

(1) On page 2, line 4, strike the words, "an armor piercing bullet" and substitute, "armor-piercing ammunition".

The amendment was adopted without objection.

SB 22, as amended, was passed to third reading. (Carriker and Staniswalis recorded voting no)

MESSAGE FROM THE SENATE

Austin, Texas, May 18, 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:

HB 1048 by Smith of Travis, relating to the punishment of habitual offenders. (amended)

CSHB 2298 by Tejeda, relating to the creation and procedure of the Courts at Law Numbers 4, 6, 7, and 8 of Bexar County. (amended)

Respectfully,
Betty King
Secretary of the Senate

SB 126 ON SECOND READING
(Delay - House Sponsor)

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

SB 126, A bill to be entitled An Act relating to the powers and duties of the Texas Department of Mental Health and Mental Retardation and to certain community centers to receive relevant conviction data on applicants for employment, to deny employment to unqualified applicants, to promulgate rules, to perform psychological testing, and relating to the confidentiality of conviction data; providing penalties; adding Sections 2.28 and 2.29 to the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes).

The bill was read second time.

Representative Oliver offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 126, page 3, line 6, by inserting the following before the word "Unauthorized":

"Immediately following the employment decision of the Department with respect to the applicant, all such conviction data collected by the Department relating to his or her application shall be collected and destroyed by the Department."

Committee Amendment No. 1 was adopted without objection.
May 18, 1983

Representative DeLay offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 2**

Amend **SB 126** by deleting Sec. 2.29 (a) and (b).

Committee Amendment No. 2 was adopted without objection.

**SB 126**, as amended, was passed to third reading. (Danburg recorded voting no)

**SB 250 ON SECOND READING**

(Connelly - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

**SB 250**, A bill to be entitled An Act relating to the management of game management areas by the Parks and Wildlife Department, to the execution of any sale or lease by the State Purchasing and General Services Commission, and to licenses to take, purchase, or sell fur-bearing animals issued by the Parks and Wildlife Department to a nonresident; amending Subsections (b) and (c), Section 12.008 and Subsection (a), Section 81.403, Subdivision (6), Section 71.001, Parks and Wildlife Code, as amended.

The bill was read second time and was passed to third reading.

**SB 352 ON SECOND READING**

(G. Hill - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 352**.

**CSSB 352**

A BILL TO BE ENTITLED

AN ACT

relating to title searches for and applicability of certain insurance laws to title insurance, and the licensing and regulation of title insurance agents, title insurance companies, and title attorneys.

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

**SECTION 1.** Articles 5.75 and 9.34, Insurance Code, are amended to read as follows:

"Art. 5.75. SCOPE OF SUBCHAPTER. This subchapter applies to the kinds of insurance and to the insurers subject to Subchapters A, B, C, and D of Chapter 5 and to Chapter 9 of this code."

"Art. 9.34. DETERMINATION OF INSURABILITY. No policy or contract of title insurance shall be written unless and until the title insurance company (a) has caused a search of title to be made from the title evidence prepared from an abstract plant as herein defined, or if no such abstract plant of the county exists, or the owner of such plant refuses to furnish to the title insurance company desiring to insure, such title evidence at such [its] regular charge and within such [a] reasonable period of time as determined by the Board, then such policy or contract of title insurance shall be based upon the best title evidence available, and (b) has caused to be made a determination of insurability of title in accordance with sound title underwriting practices. Evidence thereof shall be preserved and retained in the files of the title insurance company or its agent for a period of not less than fifteen (15) years after the policy or contract of title insurance has been issued. In lieu of retaining the original copy, the title insurance company or the agent of the..."
title insurance company, may in the regular course of business establish a system whereby all or part of these writings are recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original. This Article shall not apply to (a) a company assuming no primary liability in a contract of reinsurance, or (b) a company acting as a co-insurer if one of the other co-insuring companies has complied with this Article.

SECTION 2. Section 2, Article 9.47, Insurance Code, is amended to read as follows:

"Sec. 2. Regardless of Section 1 of this Article, where applicable to title insurance companies, Articles 1.01 through 1.25; Article 2.01; Article 2.02, Sections 1, 2 and 3; Article 2.03, except Section 5; Article 2.04; Article 2.05; Article 2.06; Article 3.01, Sections 10(a), (b) and (c); Article 3.12, except Section (c); Article 3.13; Article 3.14; Article 21.21; Article 21.21-1; Article 21.25; Article 21.26; Article 21.31; Article 21.36; Article 21.37; Article 21.43; Article 21.46; and Article 21.47 and Subchapter F of Chapter 5 of this code shall apply to and govern title insurance companies where applicable thereto. In case of conflict between provisions of any of the foregoing articles and the provisions of this Chapter Nine, the latter shall govern."

SECTION 3. Article 9.36, Insurance Code, is hereby amended to read as follows:

"Sec. 1. REQUIREMENT TO OBTAIN LICENSE. The State Board of Insurance is authorized and empowered to issue licenses for title insurance agents, as defined in Art. 9.02 of this Chapter 9, to persons that first satisfy and qualify under all requirements provided in this Art. 9.36 and Art. 9.02.

"(1) No person shall act as a title insurance agent unless such person holds a license as a title insurance agent issued by the Board.

"Sec. 2. APPOINTMENTS. A. As a condition to granting a title insurance agent's license, the applicant for such license must first be appointed to act as a title insurance agent by one or more title insurance companies authorized to do the business of title insurance in this state. Such appointment shall specify the county or counties in which the title insurance agent shall be authorized to act for the title insurance company.

"B. Each title insurance company making an appointment shall immediately notify the Board of the appointment on a form promulgated by the Board for such purpose. The title insurance company shall pay a fee of not more than $50.00 for each appointment. The fee shall accompany the notice of appointment.

"C. Each appointment by a title insurance company shall be continuous and remain in force until the appointing title insurance company delivers to the Board written notice of its termination of such prior appointment.

"D. A licensed title insurance agent may hold more than one appointment.

"Sec. 3. APPLICATION FOR LICENSE. A. As a condition precedent to the granting of a title insurance agent's license, each person shall file with the Board the following:

"(1) An application for license on such form and including therein such information as may be prescribed by the Board.

"(2) Application fees of not more than $50.00.

"(3) The bond required by Art. 9.38 of this Chapter 9.

"(4) Proof of compliance with the geographical abstract plant requirements contained in Art. 9.02 of this Chapter 9.

"(5) Appointment of applicant by one or more title insurance companies authorized to do business in the State of Texas.

"B. (1) A public hearing on the application for initial title insurance agent's license shall be held by the Board and shall be not less than ten (10) nor more than
sixty (60) days after the date of issuance of notice of hearing. The Board shall notify in writing the person or persons submitting such application of the date of hearing and shall furnish (at the expense of the applicant) a copy of such notice to all title insurance companies authorized to do business in the State of Texas and all title insurance agents licensed for each county in which applicant seeks a license. Any other interested person may obtain a copy of any application or notice of hearing for a title insurance agent's license upon payment to the Board the reasonable charge established therefor. The Board shall, at the expense of the applicant, at least ten (10) days prior to hearing, publish a copy of such notice one time in any newspaper of general circulation in each county in which the applicant seeks to act as a title insurance agent. In each public hearing on such applications, a record shall be made of the proceedings, and no application shall be granted except when the application is adequately supported by competent evidence.

C. In considering any application for initial title insurance agent's license, the Board shall, within thirty (30) days after the date of the public hearing, determine whether or not:

"(1) The applicant is possessed of sufficient net worth so as to render success of the proposed title insurance agency probable;

"(2) The persons, if other than a corporation, and in the case of an application by a corporation, the officers and directors, taken as a whole, have sufficient title insurance experience, ability, standing, character and trustworthiness to render success of the proposed title agency probable;

"(3) The applicant will actively engage in and solicit the business of title insurance from the public generally; and

"(4) The applicant is acting in good faith.

D. If the Board shall determine by an affirmative finding any of the above issues adversely to the applicant, it shall reject the application in writing giving the reasons therefor; otherwise, the Board shall approve the application and issue the title insurance agent's license.

E. Despite any other provision in this Sec. 3 of this Art. 9.36 to the contrary notwithstanding, the Board may waive the public hearing provided that no person has intervened in such application hearing and no written protest to the granting of such license has been filed with the Board at least five (5) days prior to the scheduled hearing upon the application for license.

Sec. 4. EXEMPTIONS. The provisions of Secs. 3B, 3C, 3D, and 3E of this Art. 9.36 shall not apply to the granting of a new license to a title insurance agent under any of the following limited circumstances:

"A. The name of an existing title insurance agent is changed;

"B. An existing title insurance agent is changed from an individual or partnership to a incorporated title insurance agency; or such incorporated title agency is owned by the same individual(s) and in the same proportion as was owned in the prior licensed title insurance agent;

"C. Two or more existing licensed title insurance agencies licensed in the same county or counties are consolidated, merged, or a new partnership consisting of the same partners is created;

"D. Any change in the ownership of the shares of an incorporated title insurance agency provided no new or additional shareholders are added or as provided in Subsection 3B hereof; or
"E. Any change in the ownership of a title insurance agency, whether an individual, corporation, association, partnership or trust caused by: (i) devise, descent or distribution of such ownership caused by death, or (ii) gift or sale in a plan whereby the individual owner, regardless of the type of ownership, transfers all or a part of his ownership to another individual or to a trust whose beneficiary or beneficiaries are related to such transferring owner within the second degree of consanguinity.

"Sec. 5. EXPIRATION AND RENEWAL OF LICENSE. A. Each license issued to a title insurance agent prior to or after April 1, 1983, shall expire two years from the date it is issued unless an application to qualify for the renewal of the license is filed and the fee is paid as provided in Sec. 3 of Art. 9.36.

"B. It is the public policy of this state that each license issued prior to April 1, 1983 shall be renewed, subject to the Board's right of revocation under Art. 9.37, by applicant for renewal having to show compliance only with Subsections A(3), A(4) and A(5) of Section 3 of Art. 9.36. An affirmative showing of compliance with Subsection C(3) of Art. 9.36 shall not be a prerequisite for renewal of such license unless: (i) in the case of an incorporated title insurance agent one hundred percent (100%) of any class of stock ownership as owned on April 1, 1983, is transferred to another person or persons; or (ii) in the case of an incorporated title insurance agent one or more new classes of stock are issued after April 1, 1983 by such incorporated title insurance agent; or (iii) in the case of a person other than a corporation acting as a title insurance agent, one hundred percent (100%) of the total ownership as owned on April 1, 1983, is transferred to another person or persons. Upon the occurrence of an event described in this (i), (ii) or (iii), any such license may be renewed thereafter only under the provisions of Sec. 5C herein.

"C. As to all other renewal applications, each applicant for renewal of a title insurance agent's license must show compliance with the provisions of Subsections A(3), A(4), A(5) and C(3) of Sec. 3 of Art. 9.36.

"D. The State Board of Insurance shall promulgate the form of the application for renewal that will demonstrate the applicant's compliance herewith.

"E. The Board, by rule, may adopt a system under which licenses expire on various dates during a year. For any period in which the license expiration date is less than one year from its issuance, the license fee shall be prorated on a monthly basis so that only that portion of the license fee that is allocable to the number of months during which the license is valid will be paid. On each subsequent renewal of the license, the total license renewal fee is payable.

"An unexpired license may be renewed by paying the required renewal fee to the Board before the expiration date of the license. If a license has been expired for not longer than ninety (90) days, the license may be renewed by paying to the Board the required renewal fee and a fee that is one-half of the original fee for the license. If a license has been expired for longer than ninety (90) days but not less than two years, the license may be renewed by paying to the Board all unpaid renewal fees and a fee that is equal to the original fee for the license. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least thirty (30) days before the expiration of a license, the Commissioner of Insurance shall send written notice of the impending license expiration to the licensee at his last known address and to the appointing title insurance company or companies. This section may not be construed to prevent the Board from denying or refusing to renew a license under applicable law or rules of the Board.

"A. Before an initial license is issued to any person, firm, association or corporation to act as agent within the State of Texas for any title insurance company, there shall first be filed by the title insurance company with the Board
an application for agent's license, on forms to be provided by the Board, accompanied by a license fee of Twenty-Five Dollars ($25), which fee including license renewal fees shall be paid into the state treasury to the credit of the title insurance fund to be used by the State Board of Insurance to enforce the provisions of this article and all laws of this state governing and regulating title agents for such insurance companies. On initial application if an applicant fails to qualify for, or is refused a license, the license fee shall be refunded. The application shall be signed and duly sworn to by the title insurance company and the proposed agent. Such application shall contain the following:

"(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association, that it is composed wholly of Texas residents, or if a corporation, that it is a Texas corporation or a foreign corporation which has been authorized to do business in Texas; and

"(2) That the proposed agent (and if a corporation, its managerial personnel) has reasonable experience or instruction in the field of title insurance; and

"(3) That the proposed agent is known to the title insurance company to have a good business reputation and is worthy of the public trust and said title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

"(4) That the proposed agent qualified as a title insurance agent as defined in this Act.

"[The Board shall grant such license if it determines from the application and its own investigation that the foregoing requirements have been met.

"B. On or before the first day of June of each year, every title insurance company, domestic or foreign, operating under the provisions of this Act, shall certify to the Board, on forms provided by the Board, the names and addresses of every title insurance agent of said company within the state whose license is to be renewed, and shall apply for and pay a license renewal fee of Twenty-Five Dollars ($25) for a license in the name of each such agent included in said list; if any such company shall terminate any licensed agent, it shall immediately notify the Board in writing of such act and request cancellation of such license; notifying the agent of such action. No such title insurance company shall permit any agent appointed by it to write, sign, or deliver title insurance within the state until the foregoing conditions have been complied with, and the Board has granted said license. The Board shall deliver such license to the title insurance company for transmission to the Agent.

"A license shall continue in force until the second June first following its issuance, unless previously cancelled; provided, however, that if any title insurance company surrenders or has its certificate of authority revoked by the Board, all existing licenses of its title insurance agents shall automatically terminate without notice:

"[Any title insurance agent may be licensed to represent one or more such title insurance companies, with a separate license granted for each:

"[The Board shall keep a record of the names and addresses of all licensed agents in such manner that the agents appointed by any company authorized to transact title insurance business within the State of Texas may be conveniently ascertained and inspected by any person upon request.

"C. A licensed title insurance agent may be licensed to represent additional title insurance companies upon application by such additional title insurance company for agent's license, on forms to be provided by the Board, and upon payment of a license fee. The application shall be signed and duly sworn to by such additional title insurance company. Such application shall contain the following:

"(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association, that it is composed wholly of Texas residents; or
if a corporation, that it is a Texas corporation or a foreign corporation which has
been authorized to do business in Texas; and

"(2) That the proposed agent (and if a corporation, its managerial personnel) has
reasonable experience or instruction in the field of title insurance; and

"(3) That the proposed agent is known to the title insurance company to have
a good business reputation and is worthy of the public trust and said title
insurance company knows of no fact or condition which would disqualify him from
receiving a license; and

"(4) That the proposed agent qualified as a title insurance agent as defined
in this Act; and

"(5) That the proposed agent is currently licensed by a title insurance
company:

"[D. If a title insurance company terminates its contract with a title insurance
agent or gives notice of termination to the title insurance agent, then any such agent
may, within thirty (30) days after either occurrence apply to the Board for
continuation of his license with an amendment thereto showing the name of
another title insurance company for whom he is or will be authorized to act."

SECTION 4. Article 9.30, Insurance Code, is hereby amended to read as
follows:

"Art. 9.30. REBATES, DISCOUNTS AND PROHIBITED ACTIVITIES

"A. No title insurance company nor any officer, director, employee, agent or
attorney of or for a title insurance company, nor any title insurance agent nor any
officer, director, employee, agent or attorney of or for a title insurance agent shall
directly or indirectly pay, allow, give, or offer to pay, allow, or give, any rebate of
any title insurance premium, any commission, any paid employment or contract
for service of any kind, any thing of value, or any valuable consideration or
inducement to any person, for doing the business of title insurance as defined in
Article 9.02 herein, including but not limited to procuring or soliciting title
insurance. No commission, rebate, discount, or other thing of value shall be paid,
allowed or permitted by any title insurance company, domestic or foreign, or by any
title insurance agent doing the business of title insurance provided for in this
Chapter, relating to title policies or underwriting contracts and no portion of any
premium shall be paid to any person for soliciting or referring title insurance
business; provided this Article 9.30 shall not prevent any title insurance company,
domestic or foreign, doing business under this Chapter, from appointing as its title
insurance agent in any county any person, firm or corporation owning and
operating an abstract plant of such county as its title insurance agent and making
such arrangements for division of premiums as may be approved by the Board. The
provisions of this Subsection A shall not prohibit a title insurance company or title
insurance agent from making reasonable expenditures for marketing or advertising
programs as defined and established in rules promulgated by the Board.

"B. No person shall give and no person shall accept any portion, split or
percentage of any charge made or received for the rendering of a real estate
settlement or closing in connection with a transaction involving the conveyance or
mortgaging of real estate located in the State of Texas other than for services actually
performed.

"C. Every person who directly or beneficially owns an interest of ten percent
(10%) or more in a title insurance company or a title insurance agent shall disclose
the fact of such ownership interest to all parties to a real estate transaction in which
said title insurance company or title insurance agent participates or is asked to
participate by issuing a title insurance policy or other promulgated form or to
perform other title-related services, if (i) such person owns any type of interest in
the real property which is a subject of such real estate transaction, or (ii) such person
receives any type of fee other than title insurance premium or escrow closing fee
from such real estate transaction. If a title insurance company or title insurance agent is a publicly held company whose stock is traded on a stock exchange or in the over-the-counter market or is part of an insurance holding company system the holding company of which is so publicly held, such disclosure requirement shall apply to an ownership interest in the company or agent, or affiliates thereof. 'Holding company,' 'holding company system' and 'affiliate' shall have the same meaning as provided in Article 21.49-1 of this Code. The State Board of Insurance shall adopt rules which define and establish the form, method, and promulgated form of disclosure. Nothing in this Article 9.30 shall, however, be construed as prohibiting (a) the payment of a fee to attorneys at law for services actually rendered or (b) the payment to any person of a bona fide salary, compensation or other payment for goods or facilities actually furnished or for services actually performed.

"D. Nothing in this Section shall prohibit: (i) the payment of a fee to attorneys at law for services actually rendered for title examination or title escrow closing, or (ii) the payment to any person of a bona fide salary or compensation or other reasonable payment for goods or facilities actually furnished or for services actually performed. Notwithstanding the above, an attorney at law must actually render services to the title insurance agent or the title insurance company in connection with the transaction for which he is receiving a fee, and evidence of such service must be retained in the files of the title insurance agent or title insurance company for a period of at least three years. No title insurance company nor any title insurance agent may pay nor may any attorney at law or any other person accept a fee, commission, rebate or discount for the referral of title insurance business."

SECTION 5. Article 9.38, Insurance Code, is hereby amended to read as follows:

"Art. 9.38. BONDS FOR AGENTS

(a) Every person, firm, association or corporation which has been licensed as a title insurance agent shall make, file, and pay for a surety bond with a corporate surety company authorized to write surety bonds in this state, payable to the State Board of Insurance in the sum of: (i) Fifteen Thousand Dollars ($15,000.00) for title insurance agents writing less than Two Hundred Fifty Thousand Dollars ($250,000.00) in gross annual premiums, (ii) One Hundred Thousand Dollars ($100,000.00) for title insurance agents writing Two Hundred Fifty Thousand Dollars ($250,000.00) or more but less than Five Hundred Thousand Dollars ($500,000.00) in gross annual premiums, and (iii) One Hundred Fifty Thousand Dollars ($150,000.00) for title insurance agents writing Five Hundred Thousand Dollars ($500,000.00) or more in gross annual premiums, which bond shall obligate the principal and surety to pay such pecuniary losses as may result to any participant or his assigns in an insured real estate transaction which shall be sustained through acts of fraud, dishonesty, theft, embezzlement, or willful misapplication on the part of any title insurance agent. In lieu of such bond any title insurance agent may deposit with the Board cash (or securities or letter of credit approved by the Board) which cash, (and) securities or a letter of credit shall be in the amount of: (i) Fifteen Thousand Dollars ($15,000.00) for title insurance agents writing less than Two Hundred Fifty Thousand Dollars ($250,000.00) in gross annual premiums; (ii) One Hundred Thousand Dollars ($100,000.00) for title insurance agents writing Two Hundred Fifty Thousand Dollars ($250,000.00) or more but less than Five Hundred Thousand Dollars ($500,000.00) in gross annual premiums; and (iii) One Hundred Fifty Thousand Dollars ($150,000.00) for title insurance agents writing in excess of Five Hundred Thousand Dollars ($500,000.00) in gross annual premiums and subject to the same conditions as provided for in said bond.
"(b) If at any time it appears to the Board that the terms of any agent's bond may have been violated, the Board may require the agent to appear in Travis County with such records as the Board deems proper on a named date not earlier than ten (10) days nor later than fifteen (15) days from service of notice, and there conduct an examination into the matter. If upon such examination the Board is satisfied that the terms of said bond have been violated, the Board shall immediately notify the surety and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if satisfied that the terms of said bond have been violated, then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the Board for the benefit of all parties who have suffered any loss because of breach of the terms of said bond."

SECTION 6. Article 9.11, Insurance Code, is amended to read as follows:

"Art. 9.11. REVOCATION OF RIGHT TO DO BUSINESS

"Any title insurance company [foreign or domestic corporations] which issues [issuing] any form of title insurance policy or other promulgated or approved forms, or which charges [charging] any premium rates on an owner, mortgagee, or other title insurance policy, or on other promulgated or approved forms, except for the premium rates charged for reinsurance, on Texas real property other than forms and premium rates prescribed by the Board, under the provisions of this Chapter or which does not actively engage in and solicit directly or through title insurance agents either (i) the business of title insurance from the public generally or (ii) reinsurance from other title insurance companies generally shall forfeit its right to do business in this state. The provisions of this Article 9.11 shall not, however, be applicable to premium rates charged in connection with reinsurance transactions between or among title insurance companies doing business under the provisions of this Chapter, provided any such reinsurance contract complies with the provisions of Article 9.19 of this Chapter."

SECTION 7. Section 9 of Article 9.56, Insurance Code, is amended to read as follows:

"Section 9. Bonds for Title Attorneys. (a) Every attorney who has been licensed as a title attorney shall make, file, and pay for a surety bond in like manner as is required for title insurance agents as provided in Art. 9.38 of this Chapter, with a corporate-surety company authorized to write surety bonds in this state, payable to the State Board of Insurance in the sum of $7,500, which bond shall obligate the principal and surety to (1) pay such pecuniary losses as may result to any participant in a real estate settlement or closing where an attorney's title insurance policy is issued by such title attorney which shall be sustained through acts of fraud: dishonesty, theft, embezzlement, or willful misapplication on the part of any title attorney: (2) to pay such pecuniary loss as any party to an escrow agreement in which the title attorney is escrowor: shall sustain through acts of fraud: dishonesty, forgery, theft, embezzlement, or willful misapplication on the part of such title attorney, either directly and alone, or in connivance with others. In lieu of such bond any title attorney may deposit with the board cash (or securities approved by the board) which cash and securities shall be in the amount of $7,500 and subject to the same conditions as provided for in said bond.

"(b) If at any time it appears to the board that the terms of any title attorney's bond may have been violated, the board may require the title attorney to appear in Travis County with such records as the board deems proper on a named date not earlier than 10 days nor later than 15 days from service of notice, and there conduct an examination into the matter. If upon such examination the board is satisfied that the terms of said bond have been violated, the board shall immediately notify the surety and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if
satisfied that the terms of said bond have been violated, then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the board for the benefit of all parties who have suffered any loss because of breach of the terms of said bond.”

SECTION 8. Section 7, Article 9.56, Texas Insurance Code, is hereby amended by adding a new Subsection (e) as follows:

“(e)(1) No attorney’s title insurance company nor any title attorney nor any employee of an attorney’s title insurance company nor any employee of a title attorney shall directly or indirectly pay, allow, give, or offer to pay, allow or give, any rebate of any title insurance premiums, any commission, any paid employment or contract for service of any kind, anything of value, or any valuable consideration or inducement to any person not licensed as a title attorney.

“(2) If a title attorney, in the conducting of the business of attorney’s title insurance, is called upon to issue title insurance policies or other promulgated forms, he shall disclose to all parties to the transaction, the persons that he is representing in addition to the insurer in that transaction.

“(3) Nothing herein shall prohibit (i) the payment of a fee to attorneys at law for services actually rendered, or (ii) the payment to any person of a bona fide salary, compensation or other payment for goods or facilities actually furnished or for services actually performed. No attorney’s title insurance company nor any title attorney may pay, allow or give nor may any attorney at law or any other person accept a fee, payment or anything of value for the referral of attorney’s title insurance business.”

SECTION 9. Section 12, Article 9.56, Texas Insurance Code, is hereby amended to read as follows:

“Sec. 12. The business of attorney’s title insurance shall only be conducted by attorney’s title insurance companies, as defined herein, and no title insurance company, foreign or domestic, or title insurance agent or escrow officer of a title insurance agent presently or hereafter licensed to transact a title insurance business in the State of Texas, pursuant to the provisions of this Chapter 9 of this Insurance Code, may operate as an attorney’s title insurance company or a title attorney under the provisions of this chapter without first tendering for cancellation any presently existing title insurance agent or escrow officer license or presently existing title insurance company certificate of authority.”

SECTION 10. Amend Chapter 9 of the Insurance Code by adding thereto a new Article 9.59 reading as follows:

“Art. 9.59. APPLICABILITY OF ART. 9.34 TO TITLE INSURANCE AGENTS

“The provisions of Art. 9.34 of this Chapter 9 as it relates to division of premium and time of response shall be applicable to all transactions of the business of title insurance between or among title insurance agents.”

SECTION 11. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 12. 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.

CSSB 352 was read second time.

CSSB 352 - LAID ON THE TABLE SUBJECT TO CALL

Representative G. Hill moved that CSSB 352 be laid on the table subject to call.
The motion prevailed without objection.

**SB 238 ON SECOND READING**

The speaker laid before the house on its second reading and passage to third reading.

**SB 238** is a bill to be entitled An Act relating to the regulation of lay midwives and to a lay midwifery board appointed by the Texas Board of Health, its powers and duties; defining an offense under this Act; and providing penalties.

The bill was read second time and was passed to third reading. (Ceverha, McKenna, Eckels, Fox, Schluter, Kuempel, and Blanton recorded voting no)

**SB 258 ON SECOND READING**

(DeLay - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

**SB 258** is a bill to be entitled An Act relating to the control of venereal disease; providing penalties; amending Title 71, Revised Statutes, by adding Article 4445d and by repealing Articles 4441, 4441a, 4445, 4445a, and 4445c; repealing Sections 1.21 through 1.38, Family Code; amending Subsection (a), Section 35.03, Family Code.

The bill was read second time.

Representative D. Lee offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 1**

Amend SECTION 1 of **SB 258** by adding a new Subsection (d) to Section 2.04 to read as follows:

“(d) Nothing in this section shall be construed to deny a person, as an exercise of religious freedom, to rely solely on spiritual means through prayer to prevent or cure disease, provided that the person complies with all control measures, other than treatment, imposed by the health authority or the department that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease.”

Committee Amendment No. 1 was adopted without objection.

**SB 258**, as amended, was passed to third reading.

**SB 638 ON SECOND READING**

(Laney - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 638**.

**CSSB 638**

A BILL TO BE ENTITLED
AN ACT
relating to the application of sales, rental, and use taxes on certain vehicles and machinery used for farm purposes and to the definition of motor vehicle in relation to motor vehicle sales, rental, and use taxes.

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

SECTION 1. Sections 152.001(3) and (4), Tax Code, are amended to read as follows:
(3) “Motor Vehicle” includes:
(A) a self-propelled vehicle designed to transport persons or property on a public highway;
(B) a trailer and semitrailer; and
(C) a house trailer as defined by the Certificate of Title Act (Article 6687-1, Vernon’s Texas Civil Statutes).

(4) “Motor Vehicle” does not include:
(A) a device moved only by human power;
(B) a device operated exclusively on stationary rails or tracks; or
(C) a self-propelled vehicle used exclusively to move a farm trailer, farm machinery, or road-building machinery.

SECTION 2. Section 152.001, Tax Code, is amended by adding Subdivision (13) to read as follows:
(13) “Farm machine” means a self-propelled motor vehicle specially adapted for use in the production of crops or rearing of livestock, including poultry, and use in feedlots, and includes a self-propelled motor vehicle specially adapted for applying plant food materials, agricultural chemicals, or feed for livestock. “Farm machine” does not include any self-propelled motor vehicle specifically designed or specially adapted for the sole purpose of transporting agricultural products, plant food materials, agricultural chemicals, or feed for livestock.

SECTION 3. Chapter 152, Tax Code, is amended by adding Section 152.091 to read as follows:
Sec. 152.091. FARM USE. (a) The taxes imposed by this chapter do not apply to the sale or use of a farm machine, trailer, or semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots.
(b)(1) The taxes imposed by this chapter do not apply to the purchase of a farm machine, trailer, or semitrailer that is to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots.
(2) The exemption provided by this subsection applies only if the person purchasing the farm machine, trailer, or semitrailer to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing:
(A) the identification of the motor vehicle;
(B) the name and address of the lessor and the lessee; and
(C) verification by the lessee that the farm machine, trailer or semitrailer will be used primarily for farming and ranching, including the rearing of poultry and use in feedlots.
(3) If a motor vehicle for which the tax has not been paid ceases to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner’s book value of the motor vehicle. The tax is imposed at the same percentage rate that is provided by Section 152.021(b) of this code.
(c) The taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, or a semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots. The tax that would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts imposed by Section 152.026 of this code. The exemption provided by this subsection applies only if the owner of the motor vehicle obtains in good faith an exemption certificate from the person to whom the vehicle is being rented.

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.

**CSSB 638** was read second time and was passed to third reading.

**SB 657 ON SECOND READING**  
(Valles - House Sponsor)

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

**SB 657**, A bill to be entitled An Act relating to the annual financial report filed by the Texas Board of Health relating to administration of the law regulating circuses, carnivals, and zoos; amending Subsection (d), Section 13, Chapter 396, Acts of the 67th Legislature, Regular Session, 1981 (Article 4447v, Vernon’s Texas Civil Statutes).

The bill was read second time and was passed to third reading.

**SB 1205 ON SECOND READING**  
(Hackney - House Sponsor)

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

**SB 1205**, A bill to be entitled An Act relating to a motor vehicle emissions inspection and maintenance program, to certain powers and duties of the Public Safety Commission, and to certain powers and duties of the Department of Public Safety; amending Section 142, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon’s Texas Civil Statutes), by adding Subsections (d), (e), (f), (g), and (h).

(Stiles in the chair)

The bill was read second time.

Representative Crockett offered the following amendment to the bill:

Amend **SB 1205** by striking the word “do” on line 15, page 1, and adding in its place the word “does”.

The amendment was adopted without objection.

Representative Agnich offered the following amendment to the bill:

Amend **SB 1205** by striking all below the enacting clause and substituting the following:

SECTION 1. Article XIII, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes), is amended by adding Section 107A to read as follows:

Sec. 107A. EXHAUST EMISSION SYSTEM INSPECTION AND MAINTENANCE. (a) Except as provided by Subsection (b) of this section, the commissioners court of a county shall implement a program for the inspection and maintenance of exhaust emission systems on motor vehicles registered in the county, if the Texas Air Control Board determines that the county does not meet national ambient air quality standards and the board adopts a resolution incorporating the determination and requesting the county to implement the program.

(b) The Public Safety Commission shall implement a program required by this section if the commissioners court of a county for which the Texas Air Control Board adopts a resolution under Subsection (a) of this section files with the
commission a written request for the commission to implement the program. If a commissioners court files a request with the commission under this subsection, the court also shall file with the Texas Air Control Board notice of the action.

(c) The Texas Air Control Board shall adopt standards for inspection criteria applicable to the program in a county.

(d) The entity implementing a program in a county, by rule if the Public Safety Commission and by order if the commissioners court, may establish an inspection fee, which may not exceed $5, and may issue a unique inspection certificate for a vehicle inspected under the program.

(e) The entity that operates a program under this section in a county shall terminate the program if the Texas Air Control Board determines that the federal requirement of a program has been discontinued and, after consideration of the air quality benefits of the program, adopts a resolution incorporating the determination and requesting the entity to terminate the program.

SECTION 2. This Act takes effect September 1, 1983.

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.

Representative Hackney moved to table the Agnish amendment.

The motion to table prevailed.

Representative Watson offered the following amendment to the bill:

Amend SB 1205 as follows:

On page 1, line 13, insert the word "visual" between "a" and "motor".

The amendment was adopted without objection.

Representative Green offered the following amendment to the bill:

Amend SB 1205, page 2, line 6, by striking the word "may" and substituting the word "shall".

Amend SB 1205, page 2, line 7 through 10, by placing a period after the word "action" and striking the remainder of the sentence.

The amendment was adopted without objection.

SB 1205, as amended, was passed to third reading. (Agnich, Horn, Geistweit, Green, Heflin, D. Harrison, Fox, and Schlueter recorded voting no)

SB 444 ON SECOND READING

(W. Martinez - House Sponsor)

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

SB 444, A bill to be entitled An Act relating to fees for compulsory inspection of certain vehicles and to the raising of funds for the law enforcement and custodial officer supplemental retirement fund; amending Subsection (c), Section 141, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), and Section 25.405, Title 110B, Revised Statutes.

The bill was read second time.

Representative Horn offered the following amendment to the bill:

Amend SB 444 as follows:

On page 1, line 13, strike "and Twenty-Five Cents ($5.25)".
On page 1, line 14, strike "([$5:00])", and substitute "($5.00)".

Representative W. Martinez moved to table the Horn amendment.

The motion to table prevailed.

SB 444 was passed to third reading. (Denton, Horn, Patronella, Heflin, Fox, and Schlueter recorded voting no)

SB 873 ON SECOND READING
(Patterson - House Sponsor)

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

SB 873, A bill to be entitled An Act relating to the annual meeting of the directors of soil and water conservation districts; authorizing the State Soil and Water Conservation Board to charge and use fees for paying costs of the meeting; amending Section 201.081, Agriculture Code.

The bill was read second time and was passed to third reading.

SB 596 ON SECOND READING
(Patronella - House Sponsor)

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

SB 596, A bill to be entitled An Act relating to the definition of banking house; amending Article 3, Chapter IX, The Texas Banking Code of 1943, as amended (Article 342-903, Vernon's Texas Civil Statutes); and repealing Article 3b, Chapter IX, The Texas Banking Code of 1943 (Article 342-903b, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

SB 706 ON SECOND READING
(Keller - House Sponsor)

The chair laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 706.

CSSB 706

A BILL TO BE ENTITLED
AN ACT

relating to the licensing of certain agents of legal reserve life insurance companies.

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

SECTION 1. Chapter 213, Acts of the 54th Legislature, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), is amended by adding Section 16 to read as follows:

Sec. 16. ACCIDENT AND HEALTH INSURANCE AGENTS. (a) In this section, "accident and health insurance agent" means any person or corporation that is an authorized agent of a legal reserve life insurance company and who acts as such agent only in the solicitation of, negotiation for, procurement of, or collection of premiums on an accident and health insurance contract with a legal reserve life insurance company, but does not include:

(1) a regular salaried officer or employee of a legal reserve life insurance company, or of a licensed life or accident and health insurance agent, who devotes substantially all of his or her time to activities other than the solicitation of applications for insurance contracts and receives no commission or other
compensation directly dependent upon the business obtained, and who does not solicit or accept from the public applications for insurance contracts;

(2) employers or their officers or employees, or the trustees of any employee benefit plan, to the extent that those employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits involving the use of insurance issued by a legal reserve life insurance company, provided that those employers, officers, employees, or trustees are not in any manner compensated, directly or indirectly, by the legal reserve life insurance company issuing the insurance contracts;

(3) banks or their officers and employees to the extent that the banks, or their officers, and employees collect and remit premiums by charging the premiums against the account of a depositor on the orders of the depositor;

(4) a ticket-selling agent of a public carrier with respect to accident and health insurance tickets covering risks of travel; or

(5) an agent selling credit health and accident insurance issued exclusively in connection with credit transactions, or acting as agent or solicitor for health and accident insurance under a license issued under either Article 21.07, Article 21.07-1, or Article 21.14 of the Insurance Code.

(b) The State Board of Insurance may issue a license to a person or a corporation to act only as an accident and health insurance agent for a legal reserve life insurance company as provided by this section.

(c) Each applicant for a license under this section who desires to act as an accident and health insurance agent for a legal reserve life insurance company shall submit to a personal written examination prescribed and administered in the English or Spanish language by the State Board of Insurance to determine the applicant's competency with respect to accident and health insurance and familiarity with the pertinent provisions of the health and accident insurance laws of this state. Except as provided by Subsection (d) of this section, each applicant must pass the examination to the satisfaction of the State Board of Insurance.

(d) A written examination is not required of:

(1) an applicant for license under this Section 16 if the applicant has previously been licensed and currently holds on the effective date of this section a valid license issued by the State Board of Insurance under either Article 21.07, Article 21.07-1 or Article 21.14 of this Code;

(2) an applicant whose license expires less than one year before the date of application, and who may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided the prior expired license granted the applicant the right to act as an agent for accident and health insurance; or

(3) an applicant that is a corporation; provided, however, that a corporation may be licensed hereunder only if it otherwise complies with the provisions of Section (d) of this Article, but in the application of such section to such compensation hereunder, any requirement pertaining to or reference therein to "life insurance" shall be changed and limited to "health and accident insurance" only as is intended by the terms of the Section 16.

(e) Within 60 days after the effective date of this section, the State Board of Insurance shall establish reasonable rules relating to the scope, type, and conduct of the written examination to be required of an applicant hereunder and the times and the places in this state where examinations will be held. Applicants also may take the examinations at least once in each week at the office of the State Board of Insurance.

(f) The rules adopted by the Board shall designate textbooks, manuals, and other materials to be studied by applicants in preparation for an examination under this section. The textbooks, manuals, and other materials may consist of matter
available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants on request and payment of the reasonable cost. All examination questions shall be prepared from the contents of textbooks, manuals, and other materials designated or prepared by the State Board of Insurance pursuant to this section. The questions on the examination must be limited to and be substantially similar to the questions relating to accident and health insurance included in the written examination prescribed by the State Board of Insurance under other sections of this Code.

(g) The State Board of Insurance shall charge each applicant a fee not to exceed $25 for the privilege of taking the written examination, and the fee may not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received approval of such failure to appear. A new examination fee shall be paid for each subsequent examination.

(h) After the State Board of Insurance determines that an applicant has successfully passed the written examination or is exempt therefrom as provided in (d) above, and the Board has determined the applicant to be of good character and reputation, has been appointed to act as an agent by one or more legal reserve life insurance companies, and has paid a license fee of $25, the board shall issue a license to such applicant authorizing the applicant to act as an accident and health insurance agent for the appointing insurance carrier.

(i) The State Board of Insurance may appoint an advisory committee to make recommendations to the State Board of Insurance relating to the scope, type, and conduct of written examinations. The advisory committee must be composed of individuals experienced in the accident and health insurance business, and may include company officers, managers and employees, general managers, and licensed agents. The members of the advisory committee shall serve without pay.

(j) Sections 8, 9, 10, 11, 12, 13 and 14 of this Article shall apply to accident and health insurance agents of a legal reserve life insurance company licensed under this Section, but in the application of such sections to such agents any requirements, conditions or references therein to “life insurance” shall be changed and limited to “health and accident” insurance only as is intended by the provisions of this section.

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.

CSSB 706 was read second time and was passed to third reading.

SB 701 ON SECOND READING

(Turner - House Sponsor)

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

SB 701, A bill to be entitled An Act relating to a substantive revision of state law governing certain trusts.

The bill was read second time.

Representative Rangel offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

SB 701, a bill to be entitled an act relating to a substantive revision of state law governing certain trusts, is hereby amended as follows:
1. ARTICLE 1, TITLE 1, CHAPTER 11, SECTION 11.002(15) at page 6, line 25 to read as follows:
“adoption, an ancestor, descendant, brother, sister, or spouse of any of them.”

2. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.001 at page 28, following line 17, add a new sentence:
“In the absence of any contrary terms in the trust instrument or contrary provisions of this code, in administering the trust the trustee has all of the duties imposed on trustees by the common law.”

3. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.001 at page 30, following line 21, add a new SUBSECTION (f):
“(f) A trustee may:
“(1) comply with the terms of any written executory contract signed by the settlor, including but not limited to contracts for deed, earnest money contracts, buy/sell agreements, and stock purchase or redemption agreements; and
“(2) sell the stock, bonds, obligations, or other securities of a corporation to the issuing corporation or to its corporate affiliate, provided that such sale is pursuant to an agreement described in Subdivision (1) of this section or is in compliance with the duties imposed by Section 32.002 of this code.”

4. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.005 at page 33, lines 15-25:
Delete in their entirety lines 15 through 25, inclusive.

5. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.001(b) at page 52, line 25:
“make a profit, not resulting from a failure to perform the duties set forth in Section 32.002 of this code or any other breach of trust.”

6. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.001(c) at page 53, line 1:
“chargeable with any damages resulting from such breach of trust, including but not limited to:"

7. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.005 at page 54, line 19:
“of any of the provisions of this code, except as to the duties, restrictions, and liabilities imposed on corporate trustees by Sections 32.001(b) and (c) of this code.”

8. ARTICLE 1, TITLE 4, CHAPTER 43, SECTION 43.002(a)(2) at page 56, line 10:
“trustee was guilty of actionable negligence or intentional misconduct in incurring the"

9. ARTICLE 1, TITLE 4, CHAPTER 44, SECTION 44.003(a)(1)(B) at page 58, line 12:
“actionable negligence or intentional misconduct in incurring the liability; or“

10. ARTICLE 2, SUBTITLE B, CHAPTER 111, SECTION 111.004(13) at page 86, line 8:
“adoption, an ancestor, descendant, brother, sister, or spouse of any of them.”

11. ARTICLE 2, SUBTITLE B, CHAPTER 113, SECTION 113.051 at page 111, line 7:
“administer the trust according to its terms and this subtitle. In the absence of any contrary terms in the trust instrument or contrary provisions of this subtitle, in administering the trust the trustee shall perform all of the duties imposed on trustees by the common law.”

12. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B, SECTION 113.053 at page 111, lines 24 and 25:
“Trustee. (a) Except as provided by Subsections (b), (c), (d) and (e), a trustee shall not directly or indirectly buy or sell”
13. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B,
SECTION 113.053 at page 112, following line 25, add a new Subsection (c):
“(c) A trustee may:
“(1) comply with the terms of a written executory contract signed by the
settlor, including a contract for deed, earnest money contract, buy/sell agreement,
or stock purchase or redemption agreement; and
“(2) sell the stock, bonds, obligations, or other securities of a corporation to
the issuing corporation or to its corporate affiliate if
the sale is made under an agreement described in Subdivision (1) or complies with the duties imposed by
Section 113.056.”

14. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B,
SECTION 113.059(b) at page 116, lines 12 and 13:
“duties, restrictions, or liabilities of Section 113.052 or 113.053 of this Act.”

15. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B,
SECTION 113.059(b) at page 116, lines 14-22:
Delete in their entirety lines 14 through 22 inclusive.

16. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A,
SECTION 114.001(b) at page 135, line 13:
“make a profit that does not result from a failure to perform the duties set forth
in Section 113.056 or for any other breach of trust.”

17. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A,
SECTION 114.001(c) at page 135, line 15:
“with any damages resulting from such breach of trust, including but not
limited to:”

18. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A,
SECTION 114.001(d) at page 135, lines 22-25:
Delete in their entirety lines 22 through 25, inclusive.

19. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A,
SECTION 114.005 at page 137, line 5:
“liability for past violations, except as to the duties, restrictions, and liabilities
imposed on corporate trustees by Section 113.052 or 113.053 of this subtitle.”

20. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER C,
SECTION 114.062(b)(2) at page 139, line 5:
“the trustee is guilty of actionable negligence or intentional misconduct in
incurring the”

21. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D,
SECTION 114.083 at page 140, line 16:
“Sec. 114.083. RIGHTS AND LIABILITIES FOR COMMITTING
TORTS. (a) A

22. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D,
SECTION 114.083(a)(2) at page 140, line 26:
“the trustee is guilty of actionable negligence or intentional misconduct in
incurring the”

23. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D,
SECTION 114.083 at page 141, following line 9, add a new Subsection (d):
“(d) Subject to the rights of exoneration or reimbursement under Section
114.062, the trustee is personally liable for a tort committed by the trustee or by the
trustee’s agents or employees in the course of their employment.”

Committee Amendment No. 1 was adopted without objection.

SB 701, as amended, was passed to third reading. (Bush and Green recorded
voting no)
SB 1226 ON SECOND READING  
(Bomer - House Sponsor)  
The chair laid before the house on its second reading and passage to third reading.

SB 1226, A bill to be entitled An Act relating to the periodic review of certain state agencies under the Texas Sunset Act; amending Section 21.002, Human Resources Code, and Section 2.01B, Texas Mental Health and Mental Retardation Act (Article 5547-202 et seq., Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

SB 641 ON SECOND READING  
(Wolens - House Sponsor)  
The chair laid before the house on its second reading and passage to third reading.

SB 641, A bill to be entitled An Act relating to the formation, termination, administration, and costs of municipally created reinvestment zones that qualify for tax increment financing; amending Sections 2, 3, 4, 5, 6, 8, 9, 10, and 13, Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes).

The bill was read second time.

Representative Wolens offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 641 as follows:

Section 10 (a)(2) on page 15, lines 23 and 24 is amended by striking the words "agreement incorporated into".

Section 10(c) on page 16, lines 25 and 26, and page 17, lines 1 through 4, is amended by deleting it, and the following is substituted:

"(c) A taxing unit is not required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, or, if the zone was created before the effective date of this Act, beyond September 1, 1986, unless the following conditions exist or have been met within three years from the date the zone was created, or prior to September 1, 1986 in those zones created before the effective date of this Act:

SECTION 2(a) is deleted and amended as follows:

SECTION 2. (a) A reinvestment zone created or operated under the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as it existed before the effective date of this Act (or a reinvestment zone upon which there had been a hearing after a city had made expenditures with respect to its creation) may operate as it existed (or as it was proposed to have existed) prior to the effective date of this Act, provided that, before January 1, 1984, the board of directors of the zone and the plans for the zone are reconstituted to conform to Sections 6 and 8 of the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as amended by this Act. Nothing herein contained is intended to or shall be construed to authorize the impairment of any contract entered into prior to the effective date of this Act.

SECTION 2(b) is deleted.

SECTION 2(e) is now SECTION 2(b).

Committee Amendment No. 1 was adopted without objection.

SB 641, as amended, was passed to third reading. (Bush recorded voting no)
SB 389 ON SECOND READING  
(Green - House Sponsor)  
The chair laid before the house on its second reading and passage to third reading,  

SB 389, A bill to be entitled An Act relating to the classification and promotion policies for members of police departments in certain cities, prohibiting crossover promotions from certain classes to other classes; amending Section 14A, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes).  

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

SB 417 ON SECOND READING  
(Tejeda - House Sponsor)  
The chair laid before the house on its second reading and passage to third reading,  

SB 417, A bill to be entitled An Act relating to the registration and registration fees of alarm systems installers and certain private security officers and to certain duties of the Texas Board of Private Investigators and Private Security Agencies; amending Subsection (a), Section 17; Subdivisions (21) and (22) and adding Subdivision (27), Section 2; and Sections 32 and 33, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon’s Texas Civil Statutes).  

The bill was read second time.  

Representative Keller offered the following committee amendment to the bill:  

COMMITTEE AMENDMENT NO. 1  

Amend SB 417 on page 1, SECTION 1, line 17 by striking the word “or” after the word “installer”; amend line 18 on the same page and section by adding the phrase “or private security consultant” after the word “officer”; amend line 22 of the same page and section by striking the word “or” after the word “installer” and adding the phrase “or private security consultant” after the word “officer.”  

Amend page 2, SECTION 1, line 3 by inserting the following paragraph: “Private security consultants are persons who offer advice or services in the field of private security.”  

Amend page 2, SECTION 2, line 20 by adding the phrase “for private investigators, managers, [and] branch office managers, and alarm system installers” after the word “fee”. Insert between lines 22 and 23 of the same page and section by inserting “Registration fee for consultants 50.”  

Amend page 3, SECTION 3, line 9 by striking the word “or” after the word “installer,” and before the word “noncommissioned”.  

Amend line 10 of the same page and section by adding “or private security consultant” after the word “officer” and before the word “must”.  

Amend line 21 of the same page and section by striking the word “or” after the word “installer,” and before the word “noncommissioned” and insert “or private security consultant” after the word “officer.”  

Amend page 4, Section 33, line 19 by adding “and applicant’s consulting firm” after the word “employer”.  

Amend page 6, SECTION 4, line 1 by striking the word “or” after the word “installer” and before the word “noncommissioned”.
Amend the same page and section, line 2 by adding "or private security consultant" after the word "officer" and before the word "may".

Committee Amendment No. 1 was adopted without objection.

SB 417, as amended, was passed to third reading. (Ceverha, Blanton, T. Hall, Schoolcraft, Fox, and McKenna recorded voting no)

SB 334 - LAID ON THE TABLE SUBJECT TO CALL

Representative Schoolcraft moved that SB 334 be laid on the table subject to call.

The motion prevailed without objection.

SB 970 ON SECOND READING

(E. Barton - House Sponsor)

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

SB 970, A bill to be entitled An Act relating to financing, constructing, and operating certain causeways, bridges, and tunnels by certain counties; to use and acquisition of property for purposes of a project and to the status of authorized liens or pledges; amending Chapter 304, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6795b-1, Vernon's Texas Civil Statutes), by amending Section 4 and adding Sections 4a and 4b.

The bill was read second time.

Representative Toomey offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 970 on page 1, line 3, after "bridges," by inserting "turnpikes, highways."

Committee Amendment No. 1 was adopted without objection.

SB 970, as amended, was passed to third reading. (Green, R. Martinez, Luna, Patronella, and E. F. Lee recorded voting no)

LEAVE OF ABSENCE GRANTED

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

L. Hall on motion of G. Thompson.

SB 961 ON SECOND READING

(Simpson - House Sponsor)

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

SB 961, A bill to be entitled An Act relating to the investments of insurers; authorizing the State Board of Insurance to adopt certain rules and regulations; amending the Insurance Code, as amended, by adding Articles 3.39-1 and 3.39-2.

The bill was read second time.

Representative Simpson offered the following committee amendment to the bill:
COMMITTEE AMENDMENT NO. 1

Amend SB 961 by inserting a comma (,) after the word “only” on line 10 of page 3 of the printed bill.

Committee Amendment No. 1 was adopted without objection.

Representative Simpson offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend SB 961 by adding a new Section 3 to the bill to read as follows: Section 3. The Insurance Code, as amended, is amended by adding new Article 2.10-3 and Article 2.10-4 to read as follows:

"Article 2.10-3. Repurchase Agreements. (a) Subject to the limitations and restrictions contained herein an insurer may make loans to or purchases of securities from a solvent bank, savings and loan association, credit union, or securities broker registered under the Securities Exchange Act of 1934 under an agreement commonly called repurchase agreement, which agreement provides for the purchase by the insurer of securities and which agreement matures in 90 days or less and provides for the repurchase by such entity of the same or similar securities purchased by the insurer.

"(1) such loan collateral or securities purchased are of the type of investments described and authorized by numbered paragraph 3 of Article 2.08 of this Code, and provided that the total market value of such securities shall equal or exceed the amount of such loan or purchase when it is made; and

"(2) such loan collateral or securities purchased from any one bank, savings and loan association, credit union, or securities broker may not exceed the greater of five percent of the insurer’s assets or five percent of the amount of capital surplus, and undivided profits of such bank, savings and loan association, credit union, or securities broker.

"(b) The State Board of Insurance may promulgate reasonable rules, regulations, and orders consistent with and implementing the provisions of this article."

"Article 2.10-4. Risk-Limiting Provisions. (a) Subject to the rules and regulations promulgated by the State Board of Insurance and the limitations contained in Subsections (b) and (d) of this article with respect to assets owned by an insurer, an insurer may for purposes of protecting such assets against the risk of changing asset values or interest rates and for risk reduction only buy put options or sell call options and terminate the same, buy or sell interest rate futures contracts and options on interest rate futures contracts, or utilize such other instruments or devices as are consistent with this article and are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodities Futures Trading Corporation."

"(b) An insurer may engage in the purchase of put options or sale of call options and terminate such option, only with regard to:"

"(1) securities owned by the insurer; or"

"(2) securities which the insurer may obtain through exercise of warrants or conversion rights held by the insurer."

"(c) Subject to the rules and regulations promulgated by the State Board of Insurance and the limitations contained in Subsection (d) of this article with respect to cash flows reasonably anticipated to be available for investment purposes within the succeeding 12 months, which anticipation cannot exceed an amount equal to 10 percent of such insurer’s admitted assets, an insurer may for purposes of protecting such cash flows against the risk of changing asset values or interest rates
and for risk reduction only, buy or sell interest rate futures contracts and options on interest rate futures contracts or utilize such other instruments or devices as are consistent with this article and are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodities Futures Trading Corporation.

“(d) An insurer may engage in the practices authorized by this article only if prior thereto the board of directors of such insurer has adopted a written policy which specifies:

“(1) the types of risk-limiting practices approved for such insurer;

“(2) the aggregate maximum limits in such instruments, which maximum limits must be reasonably related to the insurer's business needs and its capacity to fulfill its obligations thereunder;

“(3) the specific assets or class of assets or cash flows for which risk-limiting practices may be employed; and

“(4) that the insurer's accounting or investment records shall specifically identify the assets or cash flows for which each risk-limiting practice is used.

“(e) The State Board of Insurance is hereby authorized to adopt such reasonable rules and regulations, not inconsistent with the provisions of this article, which prescribe reasonable limits, standards, and guidelines with respect to such risk-limiting devices and plans related thereto.”

Renumber Section 3 as Section 4.

Committee Amendment No. 2 was adopted without objection.

SB 961, as amended, was passed to third reading.

SB 662 ON SECOND READING
(G. Hill - House Sponsor)

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

SB 662, A bill to be entitled An Act relating to the amount of the fee charged by county clerks and county recorders for a copy of a birth or death certificate; amending Article 3930, Revised Statutes.

The bill was read second time and was passed to third reading.

SB 1082 ON SECOND READING
(Armbrister - House Sponsor)

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

SB 1082, A bill to be entitled An Act relating to fees, costs, and deposits to be received by the Clerks of the Courts of Appeals for civil cases; amending Article 3924, Revised Statutes, as amended; and declaring an emergency.

The bill was read second time.

Representative Armbrister offered the following amendment to the bill:

Amend SB 1082 by adding SECTIONS 2 and 3 to read as follows and renumbering the remaining section accordingly:

“SECTION 2. Fifty percent (50%) of the fees collected under the provisions of Article 3924, Revised Civil Statutes, 1925, as amended, shall be deposited in a special fund in the State Treasury to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the Court of Appeals depositing such fees as approved by the Chief Justice of that Court.
The expenditure of said funds shall be upon a warrant drawn upon the State Treasury by the Office of Court Administration for the foregoing purposes."

"SECTION 3. For the state fiscal years ending August 31, 1984 and August 31, 1985, there is hereby appropriated to the Office of Court Administration fifty percent (50%) of the fees collected under provisions of this Act to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the court of appeals depositing such fees, as provided for in Section 2 of this Act."

The amendment was adopted without objection.

SB 1082, as amended, was passed to third reading.

SB 1208 - POSTPONED

Representative G. Thompson moved that consideration of SB 1208 be postponed until Thursday, May 19, at 10 a.m.

The motion prevailed without objection.

SB 763 - POSTPONED

Representative G. Thompson moved that consideration of SB 763 be postponed until Thursday, May 19, at 10 a.m.

The motion prevailed without objection.

SB 802 ON SECOND READING

(Hury - House Sponsor)

The chair laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 802.

CSSB 802

A BILL TO BE ENTITLED
AN ACT
relating to the surrender, obtaining, and designation of certificates of title to certain motor vehicles; adding Subsections (c), (d), and (e) to Section 37, Certificate of Title Act (Article 6687-1, Vernon’s Texas Civil Statutes).

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

SECTION 1. Section 37, Certificate of Title Act (Article 6687-1, Vernon’s Texas Civil Statutes), is amended by adding Subsections (c), (d), and (e) to read as follows:

"(c) The owner of a motor vehicle that has been rendered a total loss due to flood shall surrender to the Department the certificate of title or the manufacturer’s statement of origin together with the written consent of the holders of all unreleased liens noted thereon. The Department shall thereupon cancel the certificate of title and the vehicle may not be operated in Texas.

"(d) Before operating in Texas a vehicle that has been rendered a total loss due to flood in Texas or elsewhere, the owner of the vehicle shall obtain a new certificate of title from the Department. Whether the vehicle for which a certificate of title is sought under this Subsection was last titled in Texas, or by authority of a jurisdiction other than Texas, the applicant shall disclose to the Department that the vehicle has been rendered a total loss due to flood.

"(e) The Department shall make an appropriate designation on all certificates of title issued pursuant to Subsection (d) of this Section and on all certificates of title issued pursuant to Subsection (b) of this Section for vehicles, the certificate of title or other evidence of ownership to which has been surrendered to the Department pursuant to Subsection (a) of this Section or Chapter 506, Acts of the 57th
Legislature, Regular Session, 1983 (Article 6687-2, Vernon's Texas Civil Statutes).
The Department shall insure that the designation required by this Subsection appear on the face of all certificates of title issued or reissued pursuant to this Section.

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.

CSSB 802 was read second time and was passed to third reading. (Wieting recorded voting no)

**SB 764 ON SECOND READING**  
(Delco - House Sponsor)

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

SB 764, A bill to be entitled An Act relating to student fees at The University of Texas at Austin; to the establishment, membership, terms, and operation of a student advisory committee; and to certain powers and duties of the board of regents of The University of Texas System; amending the Texas Education Code, as amended, by adding Sections 67.211 and 67.212 to Subchapter B of Chapter 67; by adding Subsection (h) to Section 54.503; by amending Subsection (c) of Section 67.21; and by repealing Subsection (b) of Section 67.21.

The bill was read second time.

Representative Delco offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 1**

Amend SB 764 by striking Subdivision (1) of Subsection (1) of Section 67.211, Texas Education Code, as added by SECTION 1 of the bill and inserting in lieu thereof the following:

"(1) if the service or activity supported from the fees is not intercollegiate athletics or is not also appropriately classified as any other auxiliary enterprise that charges a fee directly related to the cost of the service under the criteria outlined in College and University Business Administration, Fourth Edition, (1982), published by the National Association of College and University Business Officers; or"

Committee Amendment No. 1 was adopted without objection.

SB 764, as amended, was passed to third reading.

**SB 808 ON SECOND READING**  
(Berlanga - House Sponsor)

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

SB 808, A bill to be entitled An Act relating to the retention of redfish and speckled sea trout by shrimpers and to the application of criminal penalties; adding Section 77.0191 to Subchapter B, Chapter 77, Parks and Wildlife Code; repealing Section 77.100, Parks and Wildlife Code, effective on the date of this Act but preserving the section in force after that date only for the purpose of prosecution and punishment of persons who violated the section before repeal.

(Speaker in the chair)

The bill was read second time and was passed to third reading. (Blanton, Ceverha, and Watson recorded voting no)
SB 834 ON SECOND READING
(Hightower - House Sponsor)

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

SB 834, A bill to be entitled An Act relating to the importation, transportation, and sale of redfish and speckled sea trout; providing penalties; amending Section 66.201, Parks and Wildlife Code, by amending Subsections (f) and (g) and by adding Subsection (k).

The bill was read second time and was passed to third reading. (Oliveira, Watson, Blanton, and Ceverha recorded voting no)

SB 1022 ON SECOND READING
(G. Hill - House Sponsor)

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

SB 1022, A bill to be entitled An Act relating to catching redfish and speckled sea trout by persons on commercial fishing boats; providing penalties; amending Chapter 66, Parks and Wildlife Code, as amended, by adding Section 66.2013.

The bill was read second time and was passed to third reading. (Oliveira, Watson, Blanton, Ceverha, Hury, and Criss recorded voting no)

SB 147 ON SECOND READING
(Emmett - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 147.

CSSB 147

A BILL TO BE ENTITLED
AN ACT
relating to care of the State Capitol, General Land Office Building, their grounds, and their contents.

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

SECTION 1. BOARD. The State Preservation Board is established to preserve, maintain, and restore the State Capitol, the General Land Office Building, and their contents and their grounds. The buildings’ grounds shall be defined by the board, but the grounds may not include any additional state office buildings.

SECTION 2. MEMBERSHIP. (a) The board consists of the governor, lieutenant governor, speaker of the house of representatives, one senator appointed by the lieutenant governor, one representative appointed by the speaker of the house of representatives, and one member appointed by the governor.

(b) The state representative and the state senator appointed to the board are appointed for two-year terms expiring in each odd-numbered year on the day prescribed by law for the convening of the regular session of the legislature. The person appointed to the board by the governor is appointed for a two-year term expiring on February 1 of each odd-numbered year.

(c) The committee functions performed by the governor, lieutenant governor, speaker of the house, appointed state representative, and appointed state senator are additional functions of their other public offices.

(d) The person appointed to the board by the governor is entitled to a per diem as set by the General Appropriations Act for each day that the person engages in the business of the board.
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SECTION 3. CHAIRMAN; MEETINGS. (a) The governor is the chairman of the board.
(b) The board members shall meet at least twice a year and shall meet at other times at the call of the governor and as provided by the rules of the board.

SECTION 4. FUNCTIONS OF BOARD. (a) The board shall employ an architect of the Capitol who serves for a four-year renewable contract period and under the sole direction of the board.
(b) The board shall review and approve the architect’s annual work plan, budget, and long-range master plan for the buildings, their grounds, and the objects under the care of the curator, whose position is created under Section 6(a)(8) of this Act.
(c) The board shall approve all changes to the buildings and their grounds including usual maintenance and any transfers or loans of objects under the curator’s care.
(d) The board shall, with the architect, define and identify all significant aspects of the buildings and their grounds and, with the curator, identify and define all significant contents of the buildings.
(e) The board may adopt rules concerning the buildings, their contents, and their grounds. All powers and duties related to the buildings and formerly vested in the Texas Commission on the Arts, State Purchasing and General Services Commission, Antiquities Committee, Texas Historical Commission, Texas State Library and Archives Commission, or any other state agency are transferred to the board. Other specific duties may be allocated at the discretion of the board to the various state agencies.
(f) The board shall appoint a permanent advisory committee consisting of the executive director of the Texas Historical Commission, chairman of the Antiquities Committee, director of the Texas State Library and Archives Commission, and director of the Texas Commission on the Arts and three citizens, one each appointed by the governor, lieutenant governor, and speaker of the house. An appointed member serves at the will of the authority who appointed him. The committee shall assist in the development of the master plan, annual work program, and budget prepared by the architect of the Capitol and shall make recommendations concerning the approval of those documents by the board. The committee shall assist in the development of a collection policy prepared by the curator and shall make recommendations concerning the approval of these documents by the board. A citizen member of the committee is entitled to a per diem as set by the General Appropriations Act for each day that the person engages in the business of the committee.
(g) The board may appoint other advisory committees to aid it in carrying out its duties.
(h) Neither the board nor the architect has control over records and documents produced by or in the custody of a state agency, official, or employee officed in the Capitol.

SECTION 5. QUALIFICATIONS OF THE ARCHITECT OF THE CAPITOL. The architect of the Capitol must be a person with a bachelor’s degree from an institution of higher education who is registered to practice architecture in this state and who has at least four years’ experience in various aspects of architectural preservation, including historical research, preparation of plans and specifications, personnel management, policy development, and budget management.

SECTION 6. FUNCTIONS OF THE ARCHITECT OF THE CAPITOL. (a) The architect of the Capitol shall:
(1) employ staff necessary to administer the functions of the office and contract for professional services of qualified consultants, including architectural
historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, and craftsmen;

(2) develop for approval by the board a master plan with a projection of at least 20 years concerning the maintenance, preservation, restoration, and modification of the buildings, their contents, and their grounds, including a plan to restore the buildings to their original architecture;

(3) review and recommend to the board for approval an annual work program and budget consistent with the master plan for all work including usual maintenance for the buildings, their contents, and their grounds;

(4) maintain archives relating to the construction and development of the buildings, their contents, and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Texas State Library and Archives Commission;

(5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;

(6) make recommendations to transfer, sell, or dispose of in another manner unused surplus property that is not of significance as defined in the collections policy and by the registration system and inventory prepared by the curator, in the manner provided by Article 9, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);

(7) approve all exhibits placed in the buildings; and

(8) employ a curator of the Capitol who shall assist in matters dealing with the preservation of historic materials and who must be a person with a minimum of a master's degree and four years' experience in historic collections administration with a specialization in the material culture of this state.

(b) The curator of the Capitol shall:

(1) develop and maintain a registration system and inventory of the contents of the buildings and their grounds and of the original documents relating to its construction and alteration;

(2) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the buildings;

(3) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the advisory committee and board;

(4) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance; and

(5) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy.

SECTION 7. OFFICES IN CAPITOL. (a) The board, the architect, or the curator may not move the office of the governor, lieutenant governor, or a member of the legislature from the Capitol unless the removal is approved by the governor in the case of the governor's office, by the lieutenant governor in the case of the lieutenant governor's office, or by the house of the legislature in which the member serves in the case of a legislative member's office.

(b) The board, architect, or curator have no control over the furniture, furnishings, and decorative objects in the offices of the members of the legislature.

SECTION 8. PROPERTY PROVIDED AND DONATIONS. (a) The board shall develop plans and programs to solicit gifts, money, and items of value.

(b) The board may solicit gifts and money or items of value from private persons, foundations, or organizations.

(c) All property provided by private persons, foundations, or organizations, and all money donated to the board become the property of the state and are under the control of the board.
(d) This section does not apply to temporary exhibits or property of a person having an office in the Capitol.

SECTION 9. FIRE INSPECTION. The state fire marshal shall inspect the Capitol on an annual basis and whenever requested by the board and shall report the results of the inspection to the board.

SECTION 10. APPLICATION OF SUNSET ACT. The board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished and Sections 1-11 of this Act expire September 1, 1995.

SECTION 11. RESPONSIBILITY FOR ITEMS. Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this Act are not part of the Texas State Library and are not subject to the custody or control of the Texas State Library and Archives Commission or any other agency.

SECTION 12. Article 5438, Revised Statutes, is amended to read as follows:

Art. 5438. CUSTODY OF RECORDS. The custody and control of books, documents, newspapers, manuscripts, archives, relics, mementos, flags, works of art, etc., and the duty of collecting and preserving historical data, is under the control of the Commission. [The gallery of the portraits of the Presidents of the Republic and the Governors of this State constitutes a part of the State Library;] All books, pictures, documents, publications and manuscripts, received through gift, purchase or exchange, or on deposit, from any source, for the use of the State, except those items subject to the control of the State Preservation Board, shall constitute a part of the Texas State Library, and shall be placed therein for the use of the public. The State Preservation Board, with the advice of the Commission, may determine the placement and removal of the items in buildings under the board's care.

SECTION 13. Section 4.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.05. INSPECTION OF STATE PROPERTY. The commission shall frequently inspect all the public buildings and property of the state [at the capitol; and all other buildings and property of the state] at such regular intervals as may be necessary to keep constantly informed of the condition of the same, except that the commission may inspect the buildings, property in the buildings, and other property under the control of the State Preservation Board only at the board's request. The commission shall report to the board the results of any inspection. Restoration and repairs may be made only at the direction of the board and only by a contractor or agency chosen by the board.

SECTION 14. Section 4.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

SECTION 15. This Act takes effect September 1, 1983.

SECTION 16. 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.

CSSB 147 was read second time and was passed to third reading. (Patterson recorded voting no)

SB 1038 ON SECOND READING
(Mankins - House Sponsor)

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

SB 1038, A bill to be entitled An Act relating to protective clothing for firefighters; giving the Commission on Fire Protection Personnel Standards and
Education certain decision-making and enforcement authority; amending Section 8A, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes).

The bill was read second time.

Representative Green offered the following amendment to the bill:

Amend SB 1038 at page 1, line 12, by adding the words "bunker coats," between the word "turnout coats," and "boots."

The amendment was adopted without objection.

Representative Rudd offered the following amendment to the bill:

Amend SB 1038 by adding a new Subsection (g) to amended Section 8A to read as follows:

(p) Notwithstanding Subsections (a) and (d) of this section, if the commission determines that protective clothing containing cotton provides substantially equal protection, the commission shall permit the state, county, and municipal agencies to use cotton protective clothing that the commission has determined to be acceptable instead of the protective clothing prescribed by the National Fire Protection Association.

The amendment was adopted without objection.

SB 1038, as amended, was passed to third reading.

MESSAGE FROM THE SENATE

Austin, Texas, May 18, 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 816 by Brooks, relating to the disposition of interest earned on certain funds deposited in the treasury by the State Commission for the Blind.

SB 827 by McFarland, relating to immunity from certain liability to persons providing information involving known or suspected fraudulent insurance and reinsurance transactions.

SB 1040 by Glasgow, relating to licensing and regulation of insurance solicitors and agents.

Respectfully,
Betty King
Secretary of the Senate

SB 383 ON SECOND READING
(Haley - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 383, A bill to be entitled An Act relating to the accounting treatment of the exchange of certain permanent school fund securities; adding Section 15.15 to Chapter 15, Texas Education Code, as amended.
The bill was read second time and was passed to third reading.

**SB 899 ON SECOND READING**
(Presnal - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

**SB 899**, A bill to be entitled An Act relating to the exemption of the Texas Agricultural Extension Service, the Texas Engineering Extension Service, the Texas Engineering Experiment Station, the Office of South Central Interstate Forest Fire Protection Compact Administrator for Texas, and the Texas Agricultural Experiment Station from the provisions of the Texas Sunset Act, as amended (Article 5429k, Vernon’s Texas Civil Statutes); amending the Texas Education Code by repealing Sections 88.002, 88.003, 88.004, 88.1131, and 88.2031.

The bill was read second time and was passed to third reading.

**SB 640 ON SECOND READING**
(Barrientos - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

**SB 640**, A bill to be entitled An Act relating to credit for good conduct time earned by a prisoner toward reduction of a sentence and to the duty of sheriffs of the director of the Texas Department of Corrections; amending Section 3, Article 6181-1, Revised Statutes.

The bill was read second time.

Representative Barrientos offered the following amendment to the bill:

Amend **SB 640** by striking the bracketed language on page 1, lines 19 and 20 and inserting in lieu thereof “or is on parole or under mandatory supervision”.

The amendment was adopted without objection.

**SB 640**, as amended, was passed to third reading. (Robinson, Ceverha, Kuempel, Schlueter, Patterson, and Kubiak recorded voting no)

**SB 277 ON SECOND READING**
(Hammond - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

**SB 277**, A bill to be entitled An Act relating to the confidentiality of alarm systems records; amending Section 28, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon’s Texas Civil Statutes).

The bill was read second time and was passed to third reading.

**SB 231 ON SECOND READING**
(Emmett - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 231**.
CSSB 231

A BILL TO BE ENTITLED
AN ACT
relating to the continuation, membership, operation, administration, and powers
and duties of the Antiquities Committee and to certain information which a state
agency must make available to the State Purchasing and General Services
Commission for the committee; amending the Natural Resources Code, as
amended, by amending Subsection (b), Section 191.051 and Sections 191.011,
191.014, 191.017, 191.053, 191.054, 191.055, and 191.056, 191.058; amending
Section 191.003 by adding Subdivision (3); amending Subchapter B, Chapter 191,
by adding Sections 191.020, 191.021, 191.022, and 191.023; Subchapter C, Chapter
191, by adding Section 191.059; and Subchapter D, Chapter 191, by adding Section
191.058; amending Section 8.02, State Purchasing and General Services Act by
adding Subsection (e); and repealing Section 3a, Antiquities Code of Texas (Article
6145-9, Vernon's Texas Civil Statutes), as added by Section 2.079, Chapter 735,

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 191.003, Natural Resources Code, is amended by
adding Subdivision (3) to read as follows:
"(3) 'State agency' means a department, commission, board, office, or other
agency that is a part of state government and that is created by the constitution or
a statute of this state. The term includes an institution of higher education as defined
by Section 61.003, Texas Education Code.
SECTION 2. Section 191.011, Natural Resources Code, is amended to read
as follows:
"Section 191.011. CREATION AND MEMBERSHIP OF COMMITTEE. (a)
There is created an Antiquities Committee, which is composed of nine [seven]
members, including the Chairman [Director] of the Texas Historical Commission
or a member of the commission designated by the Chairman, the Director of the
Parks and Wildlife Department, the Commissioner of the General Land Office, the
State Archeologist, the State Engineer-Director of the State Department of
Highways and Public Transportation, the Executive Director of the Texas
Department of Water Resources, and the following citizen members: one
professional archeologist from a recognized museum or institution of higher
learning in Texas; one professional historian with expertise in Texas
history and
and
culture, and one
professional
museum
director
of
a
major,
state-funded
museum
that
has
significant
research
facilities [the Director of the Texas Memorial Museum
of
The
University
of
Texas
System].
(b) A person who is required to register as a lobbyist under Chapter 422, Acts
of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c,
Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on
behalf of a profession related to the operation of the committee may not serve
as a member of the committee or act as the general counsel to the committee.
(c) Appointments to the committee shall be made without regard to the race,
creed, sex, religion, or national origin of the appointee.
SECTION 3. Section 191.014, Natural Resources Code, is amended to read
as follows:
"Section 191.014. TERM OF CITIZEN MEMBERS. Each citizen member of
the committee shall serve for a term of two years expiring on January 31 of each
odd-numbered year [coexistent with the governor appointing him and until his
successor is appointed and qualifies]."
SECTION 4. Section 191.017, Natural Resources Code, is amended to read
as follows:
"Section 191.017. QUORUM. Five [Four] members of the committee constitute a quorum for conducting business."

SECTION 5. Subsection (b), Section 191.051, Natural Resources Code, is amended to read as follows:

"(b) The committee shall:

"(1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;

"(2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;

"(3) contract or otherwise provide for discovery and salvage operations and scientific investigations under the provisions of Section 191.053 of this code;

"(4) consider the requests for and issue the permits provided for in Section 191.054 of this code; [and]

"(5) prepare and make available to the general public and appropriate state agencies information of consumer interest describing the functions of the committee and the procedures by which complaints are filed with and resolved by the committee and

"(6) protect and preserve the archeological resources of Texas."

SECTION 6. Subchapter B, Chapter 191, Natural Resources Code, is amended by adding Sections 191.020, 191.021, 191.022, and 191.023 to read as follows:

"Section 191.020. REMOVAL OF CITIZEN COMMITTEE MEMBER. (a) It is a ground for removal of a citizen member from the committee if the member:

"(1) does not have at the time of appointment the qualifications required by Sections 191.011 and 191.012 of this code for appointment to the committee; or

"(2) does not maintain during the service on the committee the qualifications required by Sections 191.011 and 191.012 of this code.

"(b) The validity of an action of the committee is not affected by the fact that it was taken when a ground for removal of a member of the committee existed.

"Section 191.021. COMPLIANCE WITH OPEN MEETINGS ACT AND ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. (a) The committee is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the proposed designation of a building under its control as a landmark, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. In the conduct of proceedings under the Administrative Procedure and Texas Register Act, both the hearing officer in his or her recommendations to the committee and the committee in its determinations of findings of fact and conclusions of law shall consider, in addition to such other objective criteria as the committee may establish pursuant to Section 191.091 of this Chapter:

"(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

"(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;

"(3) whether the benefit to the state from landmark designation outweighs the potential inflexibility of use that may be a consequence of the designation; and
(4) whether the cost of remodeling and/or restoration that might be required under the permit procedures of the committee if the building were designated as a landmark may be so substantially greater than remodeling under procedures established by law for the review of remodeling projects for higher education buildings not so designated as to impair the proper use of funds designated by the state for educational purposes at the institution.

(c) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the terms of a permit proposed to be granted to an institution of higher education under this Chapter, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. The hearing officer in his or her recommendations to the committee and the committee in its determination of findings of fact and conclusions of law shall consider:

(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;
(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;
(3) whether the legislature has provided extra funds that may be required to implement any proposed requirements;
(4) the effect of any proposed requirements on maintenance costs;
(5) the effect of any proposed requirements on energy costs; and
(6) the appropriateness of any proposed permit requirements to the uses to which a public building has been or will be dedicated by the governing board of the institution of higher education.

(d) Weighing the criteria set forth in Subsections (b) and (c) of this Section against the criteria it adopts pursuant to Section 191.092 of this Chapter and such criteria as it may adopt with regard to permit requirements, the committee shall designate a building under the control of an institution of higher education as a landmark or include a requirement in a permit only if the record before the committee establishes by clear and convincing evidence that such designation or inclusion would be in the public interest.

"Section 191.022. AUDITS. The State Auditor shall audit the financial transactions of the Committee during each fiscal year."

"Section 191.023. APPLICATION OF SUNSET ACT. The Antiquities Committee is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the committee is abolished effective September 1, 1995."

SECTION 7. Sections 191.053, 191.054, 191.055, 191.056 and 191.058, Natural Resources Code, are amended to read as follows:

"Section 191.053. CONTRACT FOR DISCOVERY AND SCIENTIFIC INVESTIGATION [SALVAGE]. (a) The committee may contract with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and scientific investigation [salvage] of sunken or abandoned ships or wrecks of the sea, or any part of [re] the contents of them, or treasure imbedded in the earth.

(b) At the discretion of the committee the contract may provide for fair compensation to the salvager in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered. The contract may provide for appraisal by qualified experts or by representatives of the contracting parties to determine the reasonable cash value. The committee shall determine the
The contract shall:

"(1) be on a form approved by the attorney general;

"(2) specify the location, nature of the activity, and the time period covered by the contract; and

"(3) provide for the termination of any right in the investigator [salvager] or permittee under the contract on the violation of any of the terms of the contract.

(c) [(d)] The executed contract shall be recorded by the person, firm, or corporation obtaining the contract in the office of the county clerk in the county or counties in which the operations are to be conducted prior to the commencement of the operation.

"(d) [(e)] Title to all objects recovered is retained by the State of Texas unless and until it is released [to the salvager or permittee] by the committee.

"Section 191.054. PERMIT FOR TAKING, EXCAVATION [SALVAGE], RESTORATION, OR STUDY. (a) The committee may issue a permit to other state agencies or institutions or to qualified private institutions, companies, or individuals for the taking, [salvage] excavation, or restoration of, or the conduct of scientific or educational studies at, in, or on landmarks, if it is the opinion of the committee that the permit is in the best interest of the State of Texas.

(b) Restoration shall be defined as any rehabilitation of a landmark excepting normal maintenance or alterations to non-public interior spaces.

"[(b)] The permit may provide for the permittee to retain a portion of any recovery as provided for contracting parties under the provisions of Section 191.053 of this code;]

(c) The permit shall:

"(1) be on a form [in compliance with forms] approved by the attorney general;

"(2) specify the location, nature of the activity, and the time period covered by the permit; and

"(3) provide for the termination of any right in the investigator or permittee under the permit on the violation of any of the terms of the permit.

Section 191.055. SUPERVISION. All scientific investigations [salvage] or recovery operations conducted under the contract provisions in Section 191.053 of this code and all operations conducted under permits or contracts set out in Section 191.054 of this code must be carried out:

"(1) under the general supervision of the committee;

"(2) in accordance with reasonable rules adopted by the committee; and

"(3) in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items.

"Section 191.056. ACCEPTANCE OF GIFTS [PURCHASE FROM SALVAGER OR PERMITTEE]. The committee may accept gifts, grants, devises, or bequests of money, securities, or property to be used in the pursuance of its activities and the performance of its duties. [(a)] The committee may purchase from the salvager or permittee the salvager's or permittee's share or portion of a share of items recovered that in the opinion of the committee should remain the property of the state. The committee may spend any appropriations made for this purpose that it considers advisable.

"[(c)] The committee may contract or agree with persons, firms, corporations, or institutions that, for the privilege of retaining temporary possession of the items the person, firm, corporation, or institution may advance to the committee the money necessary to procure from the salvager or permittee the items the committee determines should remain the property of the State of Texas on the condition that
at any time the committee may repay the person, firm, corporation, or institution the sum so advanced without interest or additional charge of any kind, and recover possession of the items. During the time the items are in the possession of the person, firm, corporation, or institution advancing the money for the purchase of them, the items shall be available for viewing by the general public without charge or at no more than a nominal admission fee, and the items may not be removed from the State of Texas except on the express authorization of the committee for appraisal, exhibition, or restoration purposes.”

Section 191.058 is amended by adding Subsection (c).

“(c) Arrangements for curation of artifacts, data, and other materials recovered under Texas Antiquities Committee permits are specified in the body of the permit. Should a state agency lack the facilities or for any reason be unable to curate or provide responsible storage for such artifacts, data, or other materials, the Texas Antiquities Committee will arrange for curation at a suitable institution.”

SECTION 8. Subchapter C, Chapter 191, Natural Resources Code, is amended by adding Section 191.059 to read as follows:

“Section 191.059. COMPLAINTS (a) The committee shall keep an information file about each complaint filed with the committee. (b) If a written complaint is filed with the committee, the committee at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.”

SECTION 9. Subchapter D, Chapter 191, Natural Resources Code, is amended by adding Section 191.098 to read as follows:

“Section 191.098. NOTIFICATION OF ALTERATION OR DEMOLITION OF POSSIBLE LANDMARK. (a) A state agency may not alter, renovate, or demolish a building possessed by the state that was constructed at least 45 years before the alteration, renovation, or demolition and that has not been designated a landmark by the committee, without notifying the committee of the proposed alteration, renovation, or demolition not later than the 60th day before the day on which the agency begins the alteration, renovation, or demolition. (b) After receipt of the notice the committee may waive the waiting period, however, if the committee institutes proceedings to determine whether the building is a state archeological landmark under Section 191.092 of this code not later than the 60th day after the day on which the notice is received by the committee, the agency must obtain a permit from the committee before beginning an alteration, renovation, or demolition of the building during the time that the committee’s proceedings are pending. (c) Should the committee fail to provide a substantive response within 60 days to a request for a review of project plans, application for permit, draft report review or other business required under the Antiquities Code, the applicant may proceed without further reference to the committee.”

SECTION 10. Section 8.02, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes) is amended by adding Subsection (e) to read as follows:

“(e) As part of the state agency’s annual inventory under Subsection (f) of Section 8.03 of this Act, each agency shall furnish to the commission information listing the identification and age of buildings that were acquired by the agency since the preceding annual inventory that are at least 45 years old on the date of the inventory or that are possessed by the agency and have become 45 years old since the preceding annual inventory and shall furnish a photograph of each of those buildings. The commission shall give this information and the photographs to the Antiquities Committee.”

SECTION 11. In each state agency’s first annual inventory under Subsection (f), Section 8.03, State Purchasing and General Services Act (Article 601b, Vernon’s
Texas Civil Statutes), made on or after the effective date of this Act, the agency shall furnish to the State Purchasing and General Services Commission information listing the identification and age of each building it possesses that is at least 45 years old on the date of that inventory and shall furnish a photograph of each of those buildings. The commission shall give that information and the photographs to the Antiquities Committee.

SECTION 12. Section 3a, Antiquities Code of Texas (Article 6145-9, Vernon's Texas Civil Statutes), as added by Section 2.079, Chapter 735, Acts of the 65th Legislature, Regular Session, 1977 is repealed.

SECTION 13. As soon as possible after the effective date of this Act, the governor shall appoint to the committee a professional museum director of a major, state-funded museum that has significant research facilities. The appointee shall serve a term expiring January 31, 1985, when the governor may make new appointments of citizen members of the committee.

SECTION 14. The change in law made by this Act in the terms of a contract or permit issued under Section 191.053 or 191.054, Natural Resources Code, applies only to a contract executed or permit issued on or after the effective date of this Act. A contract executed or permit issued before the effective date of this Act is subject to the terms provided by law at the time the contract was executed or permit issued, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 1983.

SECTION 16. 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.

CSSB 231 was read second time and was passed to third reading.

SB 845 ON SECOND READING

(Madla - House Sponsor)

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

SB 845, A bill to be entitled An Act relating to disciplinary actions by the State Board of Pharmacy, to facts and reports received by the board, and to reporting by peer group review committees and professional committees; absolving participating persons from liability; amending the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), by amending Section 27 and by adding Section 27 A.

The bill was read second time.

Representative Tejeda offered the following amendment to the bill:

Amend SB 845 as follows:

On page 2, line 6, after the period insert "The Board may report to any committee of such professional society or the society's designated staff information which it may receive with regard to any pharmacist who may be impaired by chemical abuse, mental or physical illness."

The amendment was adopted without objection.

SB 845, as amended, was passed to third reading.

SB 11 ON SECOND READING

(Cain - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 11.
CSSB 11

A BILL TO BE ENTITLED
AN ACT
relating to the quorum and the number of votes required for a commissioners court
to levy a tax and the meetings at which a tax may be levied; amending Articles 2343,
as amended, and 2354, Revised Statutes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Articles 2343, as amended, and 2354, Revised Statutes, are
amended to read as follows:
Art. 2343. QUORUM. [(a)] Any three members of the court, including the
county judge, constitute a quorum for the transaction of any business except that
of levying a county tax.
[(b)] In case a member of the court is incapacitated from any cause, then any
other four members of the court constitute a quorum for levying the tax if
[(l)] the member's incapacity is certified in writing by a duly licensed
physician; and
[(2)] a district court of the county approves the certification.
Art. 2354. WHEN TAX LEVIED; VOTES REQUIRED. (a) A county tax
may be levied at any regularly scheduled meeting of the court when at least four
members of the court are present. No county tax shall be levied except at a regular
term of the court, and when all members of said court are present.
(b) A county may not levy a tax unless at least three members of the court
vote in favor of the levy.

SECTION 2. This Act takes effect January 1, 1984.

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.

CSSB 11 was read second time and was passed to third reading. (T. Hall,
Delco, and Horn recorded voting no)

SB 1140 ON SECOND READING
(Fox - House Sponsor)

The speaker laid before the house on its second reading and passage to third
reading.

SB 1140, A bill to be entitled An Act relating to standards for rating energy
devices for use in performance rating and certification of the devices and to tax
exemption for certain solar energy devices; amending Section 151.325, Tax Code,
by amending Subsection (a) and adding Subsection (c).

The bill was read second time and was passed to third reading.

SB 230 ON SECOND READING
(Saunders - House Sponsor)

The speaker laid before the house on its second reading and passage to third
reading.

SB 230, A bill to be entitled An Act relating to the eligibility for
unemployment compensation benefits of certain students; amending Subdivision
(5), Subsection (g), Section 19, Texas Unemployment Compensation Act, as
amended (Article 5221b-17, Vernon’s Texas Civil Statutes).

The bill was read second time and was passed to third reading.
The speaker laid before the house, in lieu of HB 763, on its second reading and passage to third reading.

SB 106, A bill to be entitled An Act relating to the continuation of the State Securities Board and to the membership, qualifications, powers and duties, and administration of the board and the duties of the Securities Commissioner; to procedures for registration of dealers, agents, and salesmen; authorizing certain fees, assessments, and charges; providing for hearings and judicial review; providing for exemption of certain transactions; requiring an annual audit; providing enforcement procedures and penalties and a limitation period for indictment for certain offenses; amending The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), by amending Sections 2, 5, 11, 13, 14, 18, 19, 24, 25, 27, 29, 32, 35, and 36 and Subsection F, Section 28-1; adding Section 29-1; and repealing Subsections G through L, Section 28-1.

The bill was read second time.

SB 106 - POSTPONED

Representative C. Evans moved that consideration of SB 106 be postponed until Thursday, May 19, at 10 a.m.

The motion prevailed without objection.

HJR 95 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HJR 95.

CSHJR 95

A JOINT RESOLUTION

proposing a constitutional amendment relating to the definition of indictments and informations, their use and requisites, and the investing of jurisdiction in the courts.

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

SECTION 1. That Article V, Section 12, of the Texas Constitution be amended to read as follows:

Sec. 12. All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. [The style of all writs and process shall be, "The State of Texas."
All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State." ]

An indictment is a written instrument presented by a grand jury charging an accused with the commission of an offense. An information is a written instrument presented by an attorney for the State charging an accused with the commission of an offense. The necessity, use, amendment, sufficiency, and requisites of indictments and informations shall be as prescribed by statute. The presentment of an indictment or information invests the court in which it is presented with jurisdiction, provided that, if the court has no jurisdiction over the subject matter, it shall transfer the cause to a court having jurisdiction. No indictment or information shall be dismissed, nor shall a conviction be reversed or otherwise set aside for any error, defect, or irregularity in an indictment or information which does not prejudice a defendant's substantial rights.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1983. The ballot shall be printed
to provide for voting for or against the proposition: "The constitutional amendment to define indictment and information, their use and requisites, and to designate when a court obtains jurisdiction of the cause."

A record vote was requested.

**CSHJR 95** was read second time and was adopted by (Record 432): 121 Yeas, 21 Nays, 1 Present, not voting.

**Yeas** - Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Cary; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Davis; DelRay; Delco; Denton; Eckels; Eikenburg; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Gavin; Geistwedt; Gibson, B.; Gibson, J.; Gilley; Green; Grisham; Haley; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Madla; Mankins; Messer; Millsap; Moreno, A.; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Prensal; Price; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Toomey; Tow; Turner; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wills; Wright.

**Nays** - Barrientos; Cavazos; Danburg; Edwards; Evans, L.; Garcia, A.; Garcia, M.; Hackney; Hernandez; Hudson, S.; Luna; Martinez, R.; Martinez, W.; Moreno, P.; Oliveira; Oliver; Ragsdale; Rangel; Salinas; Thompson, S.; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hall, L.

Absent — Barton, B.; Carriker; Glossbrenner; Granoff; Uher; Wolens.

**STATEMENT BY REPRESENTATIVE DANBURG**

Regarding HJR 95, Record Vote No. 432, let the journal reflect that Representative Danburg was present and voting yes.

Danburg

**HJR 47 ON SECOND READING**

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

**HJR 47**, A joint resolution proposing a constitutional amendment relating to the freeze on property taxes levied for public school purposes on homesteads of the elderly.

A record vote was requested.

The resolution was read second time and was adopted by (Record 433): 138 Yeas, 1 Nay, 2 Present, not voting.

**Yeas** - Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DelRay; Delco; Denton; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.;
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HOUSE JOURNAL

Gavin; Geistweit; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Hall, T.; Hammond; Hanna; Harrison, W.; Heflin; Hernandez; Hightower; Hibbert; 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; Madia; Mankins, Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pennington; Peveto; Pierce; Polk; Polombo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schloerhaft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Valles; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nay — Eckels.

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

Absent, Excused — Hall, L.

Absent — Bush; Haley; Hall, W.; Harrison, D.; Patterson; Uher; Vowell; Wolens.

STATEMENT BY REPRESENTATIVE ECKELS

I inadvertently voted no when I meant to vote yes on the vote recorded on HJR 47.

Eckels

HJR 87 ON SECOND READING

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

HJR 87, a joint resolution proposing a constitutional amendment relating to the election of judges to the supreme court and court of criminal appeals from single-member districts.

The resolution was read second time.

A record vote was requested.

HJR 87 failed of adoption by (Record 434): 37 Yeas, 108 Nays, 1 Present, not voting.

Yea — Barton, B.; Bush; Cain; Carriker; Cary; Clark; Collazo; Criss; Finnell; Gamez; Garcia, A.; Garcia, M.; Gibson, B.; Gilley; Granoff; Hernandez; Hightower; Hinojosa; Hudson, S.; Kemp; Khoury; Lee, D.; Luna; Martinez, R.; Martinez, W.; Messer; Moreno, P.; Oliveira; Oliver; Parker; Ragsdale; Rangel; Saunders; Stiles; Watson; Wieting; Wilson.

Nay — Agnich; Armbrister; Arnold; Barrientos; Barton, E.; Blanton; Bomar; Buchanan; Burnett; Cavazos; Cervera; Clemens; Colbert; Connelly; Coody; Craddock; Crockett; Danburg; Davis; Delay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Fox; Gandy; Gavin; Geistweit; Gibson, J.; Green; Grisham; Hackney; Hall, A.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hibbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, D.; Hury; Jackson; Jones; Keller; Kubiak; Kuempel; Laney; Lee, E. F.; Leonard; McKenna; McWilliams; Madia; Mankins; Millsap; Moreno, A.; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polombo; Presnal; Price; Robinson; Rudd; Russell; Salinas; Schlueter;
STATEMENT BY REPRESENTATIVE STILES

I inadvertently voted yes when I wanted to vote no.

HJR 80 ON SECOND READING

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

HJR 80, A joint resolution proposing a constitutional amendment to authorize the granting and enforcement of common expense assessment liens on homesteads that are condominiums.

The resolution was read second time.

Representative Leonard offered the following amendment to the resolution:

Amend HJR 80 on page 2, line 7, by inserting the word "contractual" between the words "or" and "lien" and on line 11 by deleting the word "further" and substituting the word "the".

The amendment was adopted without objection.

A record vote was requested.

HJR 80, as amended, was adopted by (Record 435): 102 Yeas, 36 Nays.

Yeas — Armbrister; Barrientos; Barton, E.; Blanton; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverhu; Clark; Clemens; Colbert; Craddick; Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Eikenburg; English; Evans, C.; Evans, L.; Fennell; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hill, A.; Hill, G.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hur; Jackson; Jones; Keller; Kemp; Kubiak; Lee, D.; Lee, E. F.; Leonard; Luna; McWilliams; Mankins; Martinez, R.; Martinez, W.; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Russell; Saunders; Schoolcraft; Shaw; Short; Simpson; Smith, T.; Staniswalis; Sutton; Thompson, G.; Turner; Valles; Watson; Wieting; Willis; Wilson; Word.

Nays — Agnich; Arnold; Collazo; Connely; Coody; Emmett; Fox; Gamez; Gibson, J.; Green; Haley; Hightower; Hilbert; Hill, P.; Khoury; Kucmper; Lancey; McKenna; Madla; Patterson; Robinson; Robnett; Salinas; Schlueter; Shea; Smith, C.; Stiles; Tejeda; Thompson, S.; Toomey; Tow; Uher; Vowell; Waldrop; Wallace; Wright.

Present, not voting — Mr. Speaker(C).
Representative Bush moved that consideration of HJR 102 be postponed until Monday, May 23, at 3 p.m. The motion prevailed without objection.

**HB 562 - POSTPONED**

Representative Ragsdale moved that consideration of HB 562 be postponed until Friday, May 20, at 10 a.m. The motion prevailed without objection.

**HB 1909 ON SECOND READING**

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1909.

**CSHB 1909**

A BILL TO BE ENTITLED

AN ACT

relating to the location in flood-prone areas of solid waste facilities or injection wells for disposal of hazardous or industrial solid waste.

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

SECTION 1. In this Act:

1. “Flood map” means an official Flood Insurance Rate Map of a community on which the administrator of the federal insurance administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

2. “Area of special flood hazard” means land in a flood plain subject to not less than a one percent chance of flooding in any year delineated on a flood map as zone A, A0, AI-99, V0, or V1-30.

3. “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste, including hazardous waste, into or on any land or water in a manner that creates the potential for the solid waste to enter the environment, be emitted into the air, or be discharged into any water, including groundwater.

4. “Solid waste” has the meaning provided by the Solid Waste Disposal Act (Article 4477-7, Vernon’s Texas Civil Statutes).

5. “Hazardous waste” means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.

6. “Industrial solid waste” means solid waste resulting from or incidental to any process of industry or manufacturing or to mining or agricultural operations.

7. “Injection well” has the meaning provided by the Injection Well Act, Chapter 27, Water Code.

8. “Solid waste facility” has the meaning provided by the Solid Waste Disposal Act (Article 4477-7, Vernon’s Texas Civil Statutes).

SECTION 2. The Texas Water Commission may not issue a permit for a solid waste facility or an injection well for the disposal of hazardous waste or industrial solid waste unless the applicant demonstrates to the satisfaction of the commission...
that the proposed site for the solid waste facility or injection well is not in an area of special flood hazard in a county to which this Act applies.

SECTION 3. This Act applies only to an area of special flood hazard in a county in this state that:

(1) has not less than three river authorities operating in its boundaries;
(2) has a canal system operating in its boundaries;
(3) has experienced flooding sufficient to endanger human life and property on at least two occasions after January 1, 1979;
(4) is subject to both riverine and sheet flooding;
(5) has in its boundaries not less than two artesian freshwater aquifers capable of producing water in sufficient quantities for domestic, municipal, industrial, and irrigation use;
(6) does not have a countywide special district with jurisdiction over flooding operating in its boundaries on January 1, 1983; and
(7) is adjacent to a county that has operating in its boundaries a special district regulating the withdrawal of groundwater for the purpose of ending subsidence that contributes to or precipitates flooding, inundation, or overflow.

SECTION 4. This Act applies only to a solid waste facility or an injection well for the disposal of hazardous waste or industrial solid waste for which a permit is issued on or after the effective date of this Act, whether or not an official Flood Insurance Rate Map for the county in which the proposed facility is to be located has been approved under the federal flood insurance program.

SECTION 5. This Act does not apply to:

(1) a solid waste facility or an injection well for the disposal of hazardous waste or industrial solid waste for which a permit was issued under the Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) or under the Injection Well Act, Chapter 27, Water Code, before the effective date of this Act;
(2) a solid waste disposal facility under the jurisdiction of the Texas Department of Health; or
(3) a solid waste facility that is exempt from permitting requirements under Section 4(f), Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes).

SECTION 6. 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 1909 was read second time.

Representative Agnich raised points of order against further consideration of CSHB 1909 on the grounds that the committee substitute violates Rule 8, Section 10 of the House Rules and Article III, Section 56, and Article III, Section 57 of the Texas Constitution.

HOUSE AT EASE

At 5:52 p.m., the speaker announced that the house would stand at ease.

(Speaker pro tempore in the chair)

(Speaker in the chair)

The speaker called the house to order at 6:02 p.m.

Speaker Lewis overruled the points of order raised by Representative Agnich under Article III, Section 56, and Article III, Section 57 of the State Constitution.
Speaker Lewis sustained the point of order raised by Representative Agnich under Rule 8, Section 10 of the House Rules.

Representative Stiles moved to suspend Rule 8, Section 10 of the House Rules in order to take up and consider HB 1909.

Representative Agnich raised a point of order against further consideration of the motion to suspend the rules on the grounds that one hour's notice had not been given.

The speaker sustained the point of order.

HB 1909 - NOTICE GIVEN

Pursuant to the provisions of Rule 15, Section 4 of the House Rules; at 6:07 p.m., the speaker notified the house that in one hour, Representative Stiles would be recognized to make a motion to suspend all necessary rules in order to take up and consider HB 1909.

HB 441 ON SECOND READING

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

HB 441, A bill to be entitled An Act relating to furnishing a voter with a written voting aid for use at the polling place.

The bill was read second time and was passed to engrossment. (Craddick, Ceverha, Eikenburg, Horn, Fox, and Heflin recorded voting no)

HB 1383 ON SECOND READING

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

HB 1383, A bill to be entitled An Act relating to a limitation on municipal annexation and to the provision of municipal services to an annexed area.

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

HB 1631 ON SECOND READING

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

HB 1631, A bill to be entitled An Act relating to the reinstatement or extension of the term of restrictive covenants applicable to certain residential real estate subdivisions.

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

HB 2233 ON SECOND READING

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

HB 2233, A bill to be entitled An Act relating to housing finance corporations and the issuance of revenue bonds in order to carry out the purposes of the Act.

The bill was read second time.

Representative Leonard offered the following committee amendment to the bill:
Amend the last paragraph of SECTION 1 of HB 2233 beginning on page 6, line 12 and ending on page 7, line 12 to read as follows:

"Residential development" means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery, or equipment or any combination thereof, all real and personal property deemed necessary in connection therewith, and all real and personal property or improvements functionally related and subordinate thereto; provided, (i) that substantially (at least 90 percent) is for use by or intended to be occupied substantially (at least 90 percent) by persons of low and moderate income whose adjusted gross income, together with the adjusted gross income of all persons who intend to reside with such persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance, for the purpose of obtaining decent, safe and sanitary housing, and in connection therewith nonhousing facilities which are an integral part of or functionally related to such residential development, or (ii) that the dwelling units within such residential development are to be occupied by persons of low and moderate income within the meaning, to the extent, and for the period required by Section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended. Any such residential development shall be located within the local governmental unit.

Committee Amendment No. 1 was adopted without objection.

Representative Messer offered the following committee amendment to the bill:

Amend Section 1 of HB 2233 by striking the paragraph beginning "Mortgagor" on line 15, page 5 and ending on line 3, page 6 and placing in lieu thereof the following:

"Mortgagor" means a person or persons of low or moderate income whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with such person or persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance. In economically depressed or blighted areas or in federally assisted new communities located within a home-rule city, "mortgagor" may include (i) a person or persons whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income or (ii) any person or persons permitted to be mortgagors under Section 103 of the Internal Revenue Code of 1954, as amended, as it applies to such area or community.

Committee Amendment No. 2 was adopted without objection.

Representative G. Hill offered the following amendment to the bill:

Amend HB 2233 by adding the following as SECTION 2 and renumbering SECTION 2 as SECTION 3:

SECTION 2. Amend the Texas Housing Finance Corporation Act (Article 12691-7 Vernon's Texas Civil Statutes) by adding a new clause (28) to Section 13 thereof, to read as follows:
(28) The corporation shall have the power to invest funds obtained by the corporation from any application, issuance or other similar fees imposed by the corporation, in the stock, bonds, debentures and other securities of: (a) any one or more community industrial development corporations located in Texas which are engaged in the promotion and development of new and expanded individual and manufacturing enterprises; and (b) any small business investment company operating under the authority of Section 301(d) of the Small Business Investment Act of 1958, as amended, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages, provided, however, that nothing in this clause (28) shall be construed to: (i) prevent the investment of such funds as permitted by other provisions of this Act; or (ii) permit the corporation to invest the proceeds from the issuance by it of bonds sold pursuant to this Act in the securities described in this clause (28), unless otherwise permitted to do so by other provisions of this Act.

The amendment was adopted without objection.

HB 2233, as amended, was passed to engrossment.

HB 940 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 940.

CSHB 940

A BILL TO BE ENTITLED

AN ACT

relating to fees collected by district clerks and to the district judge supplemental salary and support personnel fund.

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

SECTION 1. Article 3927, Revised Statutes, is amended to read as follows:

Art. 3927. DISTRICT CLERK. The clerks of the district courts shall receive the following fees for their services:

(1) The fees in this Subsection shall be due and payable, and shall be paid at the time suit or action is filed.

For each suit filed, including appeals from inferior courts .......................................................... $40.00 [$25.00]

For each suit filed, including appeals from inferior courts, to be paid into the district judge supplemental salary and district court support fund .................................. $20.00

For each cross action, intervention, contempt action or motion for new trial filed .......................................................... $25.00 [$15.00]

For issuing each subpoena, including one (1) copy thereof, when requested at the time a suit or action is filed .......................................................... $10.00 [$4.00]

For issuing each citation or other writ or process not otherwise provided for, including one (1) copy thereof, when requested at the time a suit or action is filed .......................................................... $10.00 [$4.00]

For issuing each additional copy of any process, not otherwise provided for, when requested at the time a suit or action is filed ............................... $5.00 [$4.00]

(2) The fees in this Subsection shall be due and payable at the time or times of performance or request for performance of services; shall be an obligation of the party to the suit or action initiating the request, and shall be additional to the fees provided for in Subsection (1) of this Act; provided, however, that the District Clerk may accept bond or bonds as security therefor.
For issuing each subpoena not provided for in Subsection (1), including one (1) copy thereof ......................................................... $10.00 [5-490]
For issuing each citation, commission for deposition, order of sale, writ of execution and order of sale, writ of attachment, writ of injunction, writ of sequestration not provided for in Section 1, or any other writ or process not otherwise provided for, including one (1) copy thereof when required by law ............................................................... $10.00 [5-490]
For issuing each additional copy of any writ or process not otherwise provided for ................................................................. $ 5.00 [5-490]
For searching the files, records or indices, a reasonable fee to be determined by the District Clerk may be charged:

a. To locate any one cause when the person requesting same does not furnish the docket number of said cause, or
b. To ascertain the existence or nonexistence of any instrument or record in his office ................................................................. $ [5-00]
For issuing certificate to any fact or facts contained in the records of his office ................................................................. $ 2.00
For issuing deposition each one hundred (100) words ................................................................. $ 2.00 [5-20]
For abstracting judgment ......................................................... $10.00 [5-490]
For approving each bond ......................................................... $10.00 [5-490]
For making a copy, other than a photocopy, of all records, judgments, orders, pleadings, or papers on file or of record in his office whether certified or not, for any person applying for same, including the certificate and seal, per page or portion thereof ................................................................. $ 1.00

SECTION 2. (a) The district judge supplemental salary and district court support fund is created in the state treasury to be administered by the comptroller of public accounts.
(b) The fund is composed of fees collected as provided by Section 3 of this Act.
(c) Each district judge shall receive a supplemental state salary from the fund in an amount necessary so that the total salary from the state equals 80 percent of the salary of a justice of the supreme court as provided by the General Appropriations Act.
(d) At least 60 days prior to the beginning of a fiscal year, any district judge who wishes to establish a local district court support fund under this subsection shall notify the comptroller of public accounts of that fact. Prior to the beginning of the fiscal year, the comptroller shall notify each district judge of the maximum amount available per district judge based on an equitable distribution of the available funds among the district judges qualified to receive support funds provided by this section. The comptroller shall pay the available amount in to the local district court support fund as established in the treasury of the county as designated by the district judge or a majority of them pursuant to local rules adopted under article 200b, V.T.C.S. Each district judge or a majority of them may budget such funds for personnel or equipment purchases, subject to the approval of the commissioners court of the affected county. In a county having two or more district judges, the salary paid any person employed under the provisions of this subsection may not exceed that paid the deputy district clerk assigned to a district court in the county or that of the chief deputy district clerk if there is no deputy district clerk regularly assigned to a district court in the county; and, in all other judicial districts such salary may not exceed that paid the highest paid employee of a district clerk, or of a county and district clerk if the two offices are combined in a county, within the judicial district. Any
person employed under the provisions of this subsection shall be employees of the county and any equipment purchased under the provisions of this subsection shall be property of the county.

(e) It is the purpose of this act to increase funds available for the administration of justice in each county of the state. Any funds made available under this act may be supplemented by local funds. The commissioners court in each county shall not reduce the amount of funds provided for that purpose by reason of these funds being made available, except to comply with any salary differential provided by the general appropriations act.

(f) Funds expended are subject to audit by the state auditor.

(g) Nothing in this Act shall be construed to diminish the statutory duties and powers conferred on the clerks of the court, sheriff, district attorney, or any officers of the court.

SECTION 3. (a) Each district clerk shall allocate the $20 filing fee required by Article 3927, Revised Statutes, to the district judge supplemental salary and district court support fund.

(b) The funds shall be used as provided by Section 2 of this Act.

(c) The officer collecting the filing fees shall keep separate records of the fees allocated to the fund, and shall deposit the fees in the county treasury.

(d) The custodian of a county treasury shall remit to the comptroller of public accounts before the last day of each calendar quarter the funds collected under this section during the preceding quarter. The county may retain, as a collection fee, five percent of the funds collected under this section. If no fees due under this section were collected in a quarter, the report required for the quarter shall be filed in the regular manner, and the report must state that no fees due under this section were collected. In addition to the collection fee allowed by this subsection, a county maintaining a local district court support fund shall be entitled to receive and retain five percent of any funds remitted to the local district court support fund to defray costs of administering the fund.

(e) Funds collected are subject to audit by the comptroller of public accounts.

SECTION 4. Article 1018, Code of Criminal Procedure, 1925, is amended to read as follows:

Art. 1018. DEFENDANT LIABLE FOR COSTS. When the defendant is convicted, the costs and fees provided [paid] by Articles 1061, 1062, 1063, 1064, and 1065 of [the State under this code [title]] shall be a charge against him, [except when sentenced to death or to imprisonment for life] and when collected shall be paid into the county treasury, except that if the state reimburses the county for those costs and fees, the amount reimbursed shall be paid into the State Treasury.

SECTION 5. Article 1064, Code of Criminal Procedure, 1925, is amended to read as follows:

Art. 1064. FEES OF DISTRICT AND COUNTY CLERKS. (1) The clerks of the county courts, county courts at law and district courts shall be allowed the following fees:

(a) A fee of Fifty Dollars ($50.00) [Fifteen Dollars ($15.00)] in each cause filed in said courts, for filing complaints, information, for docketing and taxing costs for each defendant, for issuing original writs, issuing subpoenas, for swearing and impaneling a jury, receiving and recording verdict, for filing each paper entered in this cause, for swearing witnesses and for all other clerical duties in connection with such cause in county and district courts.

(b) A fee of One Dollar ($1.00) per page or part of a page, to be paid at the time each order is placed, for issuing each certified copy, transcript or any other paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts or clerk of district courts.
SECTION 6. Sections 1, 3, 4 and 5 of this Act take effect September 1, 1983 and apply only to fees payable on or after that date. Section 2 takes effect January 1, 1984. Fees that became payable before the effective date of this Act are covered by the law as it existed at the time the fees became payable, and the prior law is continued in effect for that purpose.

SECTION 7. 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 940 was read second time.

Representative Green offered the following amendment to CSHB 940:

Amend CSHB 940, SECTION 2(d), by inserting the word “state” between the words “a” and “fiscal” in the first sentence, on line 21 of page 3.

Also insert the word “state” in the second sentence of SECTION 2(d) between the words “the” and “fiscal”, on line 25 of page 3.

Amend CSHB 940 by adding the following sentence to SECTION 2(d) between the sentence ending with the word “section” and the sentence beginning “The Comptroller” on line 2 of page 4:

“The amount available per district judge shall not exceed $17,500 in any state fiscal year.”

Amend CSHB 940 by adding the following words to the third sentence of SECTION 2(d) between the words “pay” and “the” on line 2 of page 4:

“in three equal installments on the first day of September, January and May, “

Amend CSHB 940, SECTION 3(d) by inserting the words “on or” between the words “accounts” and “before” in the first sentence, on line 15 of page 5.

Also insert the words “the month following” between the words “of” and “each” in the first sentence of SECTION 3(d), on line 15 of page 5.

Amend CSHB 940, SECTION 6 by changing the word “January” in the second sentence to “September”, on line 5 of page 7.

Amend CSHB 940 by inserting the following section following SECTION 6 and renumbering the remaining section accordingly:

“SECTION 7. For the fiscal year ending 8-31-85 there is hereby appropriated to the Comptroller’s Judiciary the ending balance as of 8-31-84 in the district judge supplemental salary and district court support fund, the amounts necessary to fund authorized salary amounts for district judges. The balance remaining after deducting estimated judges salary for 1985 is hereby appropriated for distribution to the district court support fund. Payments to the district court support fund is to be allocated in equal amounts on September 1, January 1, and May 1.”

The amendment was adopted without objection.

CSHB 940, as amended, was passed to engrossment. (Davis and Craddick recorded voting no)

HB 1253 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1253.

CSHB 1253

A BILL TO BE ENTITLED
AN ACT
relating to offenses of using, disposing of, or storing a pesticide in certain manners; providing penalties.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 76.201(b), Agriculture Code, is amended to read as follows:

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

(1) detaches, alters, defaces, or destroys, wholly or in part, any label or labeling provided for by this chapter or a rule adopted under this chapter;

(2) adds any substance to or takes any substance from a pesticide in a manner that may defeat the purpose of this chapter or a rule adopted under this chapter;

(3) uses or causes to be used a pesticide contrary to its labeling or to a rule of the department limiting the use of the pesticide;

(4) handles, transports, stores, displays, or distributes a pesticide in a manner that violates a provision of this chapter or a rule adopted by the department under this chapter; or

(5) disposes of, discards, or stores a pesticide or pesticide container in a manner that the person knows or should know is likely to cause injury to man, vegetation, crops, livestock, wildlife, or pollinating insects; or

(A) cause injury to man, vegetation, crops, livestock, wildlife, or pollinating insects; or

(B) pollute a water supply or waterway.

SECTION 2. Section 76.201, Agriculture Code, is amended by adding a new Subsection (e) to read as follows:

(e) A person commits an offense if the person knowingly or intentionally uses, causes to be used, handles, stores, or disposes of a pesticide in a manner that causes bodily injury to a human being or pollution of a water supply. For purposes of this subsection, “pollution” means the alteration of the physical, chemical, or biological quality of, or the contamination of water in the state that renders the water harmful, detrimental, or injurious to humans or to public health, safety, or welfare.

SECTION 3. Section 76.202, Agriculture Code, is amended to read as follows:

Sec. 76.202. PENALTY. (a) Except as provided by Subsection (b) of this section, an offense under Section 76.201 of this code is a Class C misdemeanor, unless the person has been previously convicted of an offense under that section, in which event the offense is a Class B misdemeanor.

(b) An offense under Section 76.201(e) of this code is a Class A misdemeanor, unless the person has been previously convicted of an offense under that subdivision, in which event the offense is a felony of the third degree.

SECTION 4. Section 76.203, Agriculture Code, is amended by adding a new Subsection (e) to read as follows:

(c) It is an affirmative defense to prosecution under Section 76.201(e) of this code that the defendant was using, causing to be used, handling, storing, or disposing of the pesticide in accordance with a label that complied with this chapter and rules adopted under this chapter.

SECTION 5. This Act takes effect September 1, 1983. An offense under Section 76.201 of the Agriculture Code committed before the effective date of this Act is subject to the penalty provisions of Section 76.202 of that code in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. 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 1253 was read second time and was passed to engrossment.
HB 24 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 24.

CSHB 24

A BILL TO BE ENTITLED
AN ACT

relating to unlawful carrying of weapons.

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

SECTION 1. Section 46.02, Penal Code, is amended to read as follows:
Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person commits an offense if he intentionally, knowingly, or recklessly carries on or about his person a handgun, illegal knife, or club.

(b) A person commits an offense if he intentionally, knowingly, or recklessly carries on or about his person a firearm, illegal knife, or club while:

(1) in a building or serving area that is part of a premises licensed or issued a permit by the state for the sale or service of alcoholic beverages for on-premises consumption; or

(2) in a building that is part of a premises licensed or issued a permit by the state for the sale or service of alcoholic beverages for off-premises consumption.

(c) It is a defense to prosecution under Subsection (b) of this section that the person was in a motor vehicle, as that term is defined in the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), and the firearm was not a handgun or a prohibited weapon under Section 46.06 of this code.

(d) Except as provided in Subsection (e) and Subsection (f), an offense under this section is a Class A misdemeanor.

(e) An offense under Subsection (a) of this section is a felony of the third degree if it occurs on any premises licensed or issued a permit by this state for the sale or service of alcoholic beverages.

(f) An offense under Subsection (b) of this section is a felony of the third degree.

SECTION 2. This Act takes effect September 1, 1983.

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.

The bill was read second time.

Representative Carriker offered the following amendment to CSHB 24:

Amend CSHB 24 as follows:
Page 1, line 22, strike "a handgun or"

The amendment was adopted without objection.

CSHB 24, as amended, was passed to engrossment.

HB 2193 - RULES SUSPENDED

Representatives S. Thompson and Valles moved to suspend the 48-hour subcommittee report rule to allow the Committee on Liquor Regulation to consider HB 2193.

The motion prevailed without objection.
RULES SUSPENDED

Representative Haley moved to suspend the 5-day posting rule to allow the Committee on Public Education to consider HB 9, SB 1304, SB 226, HB 945, and SB 25.

The motion prevailed without objection.

SB 1036 - RULES SUSPENDED

Representative Craddick moved to suspend the 5-day posting rule to allow the Committee on Natural Resources to consider SB 1036.

The motion prevailed without objection.

RULES SUSPENDED

Representative Tejeda moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider HB 2340, HCR 217, HCR 229, HCR 230, SCR 51, SB 1097, and SB 564.

The motion prevailed without objection.

RULES SUSPENDED

Representative Pierce moved to suspend the 5-day posting rule to allow the Committee on Urban Affairs to consider HB 1929, HB 2130, HB 2405, HB 2434, SB 787, SB 958, SB 551, SB 649, and SB 1215.

The motion prevailed without objection.

SB 810 - RULES SUSPENDED

Representative Wright moved to suspend the 5-day posting rule to allow the Committee on Public Health to consider SB 810.

The motion prevailed without objection.

RULES SUSPENDED

Representative Cain moved to suspend the 5-day posting rule to allow the Committee on Transportation to consider SB 722, SB 766, SB 1322, and SB 24.

The motion prevailed without objection.

SB 875 AND HB 2384 - RULES SUSPENDED

Representative Tejeda moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider SB 875 and HB 2384.

The motion prevailed without objection.

SB 647 - RULES SUSPENDED

Representative T. Smith moved to suspend the 5-day posting rule to allow the Committee on Criminal Jurisprudence to consider SB 647.

The motion prevailed without objection.

SB 45 - RULES SUSPENDED

Representative Khoury moved to suspend the 5-day posting rule to allow the Committee on Judiciary to consider SB 45.

The motion prevailed without objection.
HJR 68 AND HB 1198 - RULES SUSPENDED

Representative Agnich moved to suspend the 48-hour subcommittee report rule to allow the Committee on Environmental Affairs to consider HJR 68 and HB 1198.

The motion prevailed without objection.

HB 2449 AND HB 2450 - RULES SUSPENDED

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider HB 2449 and HB 2450.

The motion prevailed without objection.

HB 2298 WITH SENATE AMENDMENTS

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

HB 2298, A bill to be entitled An Act relating to the redesignation of County Courts at Law Numbers 4 and 6 of Bexar County as probate courts, and to the redesignation of County Court at Law Number 5 of Bexar County as County Court at Law Number 4.

Representative Tejeda 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 2298 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on HB 2298: Tejeda, chair; M. Garcia, Sutton, and Pierce.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

County Affairs, on adjournment tomorrow, Desk 99.

Ways and Means, scheduled to meet today, will meet on noon recess tomorrow, speakers committee room, to consider SB 985, SB 986, SB 987, SB 988, SB 713, and SJR 1.

Natural Resources, Subcommittee on HB 655, on adjournment today, Desk 70, to consider HB 655.

Liquor Regulation, Subcommittee on HB 1107, on adjournment today, Desk 102, to consider HB 1107.

Criminal Jurisprudence, Subcommittee on SB 840, on adjournment tomorrow, Desk 120, to consider SB 840.

Business and Commerce, Subcommittee on HB 256, on adjournment today, Desk 145, to consider HB 256.

Urban Affairs, five minutes after adjournment today, Room 410, Reagan Building, to consider posted bills.

State Affairs, on adjournment today, Desk 97, to consider any pending legislation.
Public Health, on adjournment today, Desk 65, to consider SB 78 and SB 810.

Conference Committee on HJR 19, 9 a.m. tomorrow, Old Supreme Court room.

Liquor Regulation, on adjournment today, speakers committee room, to consider posted bills.

Judiciary, on adjournment today, Old Supreme Court room, to consider SB 45 and HB 2070.

Insurance, on adjournment today, Room 100-E, Reagan Building.

Financial Institutions, on adjournment today, Room 100C, Reagan Building, to consider SB 488, SB 429, SB 1156, and SB 1091.

Criminal Jurisprudence, on adjournment today, Desk 120, to consider SB 657 and subcommittee reports.

ADJOURNMENT

Representative Agnich moved that the house adjourn until 10 a.m. tomorrow.
The motion prevailed without objection.
The house accordingly, at 6:36 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

Business and Commerce - HB 2081

County Affairs - HB 2394, HB 2401, HB 2440, HB 2443, SB 1194, SB 1217, SB 1402

Criminal Jurisprudence - HB 2316, SB 627

Elections - SB 62, SB 587

Environmental Affairs - SB 1000

Higher Education - HB 2357

Judiciary - SB 898

Natural Resources - SB 1381, SB 1382, SB 1383, SB 1384, SB 1385, SB 1386, SB 1387

Public Health - HR 178, SB 818, SB 901, SB 906, SB 1047, SB 1278, SB 1328, SCR 66, SCR 67, SCR 69, SCR 70, SCR 71, SCR 72, SCR 91, SCR 98

Regions, Compacts, and Districts - SB 480, SB 576, SJR 16

State Affairs - HB 139, HB 400, HB 1188, HJR 113, HR 195, SB 194, SB 605, SB 711, SB 813
ENGROSSED

May 17 - HB 70, HB 350, HB 431, HB 434, HB 784, HB 793, HB 804, HB 1010, HB 1017, HB 1023, HB 1168, HB 1206, HB 1263, HB 1321, HB 1447, HB 1732, HB 1959, HB 1969, HB 2031, HB 2054, HB 2058, HB 2375, HB 2380, HB 2227

ENROLLED

May 17 - HB 2437, HCR 215, HCR 245, HCR 246

SENT TO THE GOVERNOR

May 18 - HCR 215, HCR 245, HCR 246

RECOMMENDATION OF THE TEXAS WATER COMMISSION
FILED WITH SPEAKER

The following recommendation of the Texas Water Commission was filed with the speaker:

May 17 - HB 2429

COAUTHORS AUTHORIZED

The following members were granted permission by the authors to sign bills and a resolution as coauthors:

HB 12 - Arnold
HB 67 - Arnold, Shaw
HB 154 - Arnold
HB 1374 - Arnold
HB 1631 - R. Martinez
HCR 218 - A. Moreno