

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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EIGHTY-FOURTH DAY — FRIDAY, MAY 25, 2007

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 1734).

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

Absent — Anchia; Bolton; Cohen; Corte; Creighton; Davis, J.; Garcia; Geren; Hartnett; Hernandez; Keffer; Kolkhorst; Lucio; McCall; Miles; Moreno; Noriega; Oliveira; Orr; Smith, T.; Strama; Turner; Van Arsdale; Woolley; Zerwas.

The invocation was offered by Kyle Ashley, pastor, Westoak Woods Baptist Church, Austin, as follows:

Heavenly Father, we give thanks to you on this glorious day, a day we can honor you, the God almighty, for creating this universe, this nation, and the great State of Texas.

We give thanks for the men and women elected to serve the people of Texas in this 80th session of the Texas Legislature. What a privilege it is for these representatives to serve you by serving others. May they conduct business in a manner that would please you, Lord, in a manner that demonstrates the same unconditional love for others, as you have for us. As these men and women gather in this chamber—a chamber built on the sacrifices of others, who gave their lives for the very freedom we enjoy today—enable them to utilize the gifts and talents you have bestowed upon them, acting not as adversaries, but as a unified body, as they pursue the common good of the people of the State of Texas

and this great nation. Give these outstanding servants the wisdom to know what is right, the compassion to seek what is right, and the courage to do what is right in representing the many and diverse needs of the people.

Finally, Lord, help us to believe that without you, we toil in vain, but that with you, and through you, all things are possible. In your name we pray. Amen.

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

(Bolton and Keffer now present)

### **CAPITOL PHYSICIAN**

The speaker recognized Representatives Bolton and Herrero who presented Dr. Rick Edwards and Dr. Barbara Estment of Corpus Christi as the "Doctors for the Day."

The house welcomed Drs. Edwards and Estment and thanked them for their participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Hamilton in the chair)

(Orr now present)

### **HCR 254 - ADOPTED**

**(by Peña)**

Representative Hochberg moved to suspend all necessary rules to take up and consider at this time **HCR 254**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 254**, Congratulating The University of Texas-Pan American ROTC Battalion on earning the 2006 General Douglas MacArthur Award.

**HCR 254** was adopted.

(Cohen and Corte now present)

### **HCR 272 - ADOPTED**

**(by Parker)**

The following privileged resolution was laid before the house:

### **HCR 272**

WHEREAS, **HB 4061** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical and typographical errors that should be corrected; now, therefore, be it

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

In SECTION 2 of the house engrossment (page 8, line 4), strike "South 68°24' East", and substitute "South 68°24'25" East".

**HCR 272** was adopted.

**RESOLUTIONS ADOPTED**

Representative Hardcastle moved to suspend all necessary rules in order to take up and consider at this time **HCR 265, HCR 273, HR 2237, HR 2378, HR 2464, HR 2581, HR 2609, and HR 2656.**

The motion prevailed.

The following resolutions were laid before the house:

**HCR 265** (by Dukes), Honoring Major James R. Stegall (Ret.) of Austin for his service to his country and recommending that he be inducted into the Texas Aviation Hall of Fame.

**HCR 273** (by Garcia), Paying tribute to the remarkable life of Dr. Hector P. Garcia on the third Wednesday of September in 2007 and in 2008.

**HR 2237** (by Rodriguez), Recognizing PrintGlobe, Inc., in Austin on the grand opening of its expanded facility in May 2007.

**HR 2378** (by Chavez), Honoring Yolanda M. Griego for serving as Democratic chair of Precinct 69 in El Paso County.

**HR 2464** (by Villarreal), Honoring the Conjunto Heritage Taller of San Antonio for its efforts to preserve and perpetuate traditional conjunto music in Texas.

**HR 2581** (by Puente), Honoring Sandy Rodesney for her Capitol career with the State of Texas.

**HR 2609** (by Rodriguez and Martinez Fischer), Commending Damon Martinez for his service as a legislative intern in the office of Representative Eddie Rodriguez.

**HR 2656** (by Y. Davis), Honoring comedian Dick Gregory on his 75th birthday.

The resolutions were adopted.

**HR 2052 - ADOPTED  
(by Callegari)**

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 2052.**

The motion prevailed.

The following resolution was laid before the house:

**HR 2052**, In memory of U.S. Army Master Sergeant James Curtis Coons, U.S. Army Captain James Alexander Funkhouser, Jr., U.S. Marine Corporal Benjamin Salgado Rosales, U.S. Army First Lieutenant Jonathan D. Rozier, and U.S. Marine Sergeant James Rodney Tijerina of Katy.

**HR 2052** was unanimously adopted by a rising vote.

**HR 2448 - ADOPTED**  
**(by Naishtat)**

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 2448**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2448**, In memory of Ruth Hunter Ellinger of Austin.

**HR 2448** was unanimously adopted by a rising vote.

(Geren, Lucio, McCall, and Strama now present)

(McClendon in the chair)

**CONGRATULATORY AND MEMORIAL CALENDAR**

The following congratulatory resolutions were laid before the house:

**HR 434** (by Gallego), Honoring John William Spencer and his descendents for their contributions to the Lone Star State.

**HR 1937** (by Straus), Encouraging Texans to associate the white cane and guide dog with visually impaired individuals and to exercise caution when driving in proximity to such individuals.

**HR 1968** was previously adopted.

**HR 1970** was previously adopted.

**HR 2031** (by Dutton), Congratulating the Caring Communities Home Restoration Project team on the occasion of AmeriCorps Week.

**HR 2032** (by Hardcastle), Congratulating Davis Lunsford of Graham on earning the rank of Eagle Scout.

**HR 2033** (by Hardcastle), Commemorating the 150th anniversary of the founding of Forestburg.

**HR 2036** (by Leibowitz), Congratulating Hillary Babida of Harlandale High School on being named a 2006-2007 Harlandale ISD Gates Millennium Scholar.

**HR 2037** (by Leibowitz), Congratulating Alexandra Martinez of Harlandale High School on being named a 2006-2007 Harlandale ISD Gates Millennium Scholar.

**HR 2040** was previously adopted.

**HR 2041** was previously adopted.

**HR 2042** (by Naishtat), Honoring the Continental Club in Austin on the 50th anniversary of its founding.

**HR 2043** was previously adopted.

**HR 2044** was previously adopted.

**HR 2045** was previously adopted.

**HR 2046** (by Escobar), Honoring the life of Alvino Soza and commemorating the 2007 Soza family reunion.

**HR 2047** (by Escobar), Congratulating Simon Salinas on his retirement as Willacy County judge.

**HR 2048** (by Escobar), Honoring Judge Arturo Salas for his contributions to the community of La Feria.

**HR 2050** (by Hilderbran), Congratulating Marie Hurt on her retirement as public information officer at the Dietert Senior Center in Kerrville.

**HR 2053** (by Herrero), Commemorating the 100th anniversary of the city of Robstown.

**HR 2054** (by Hochberg), Congratulating the Reverend J. Amos Jones and Odessa Jones of Houston on their 50th wedding anniversary.

**HR 2055** (by Delisi), Recognizing May 13-19, 2007, as SPJST Legislative Awareness Week and May 14-18, 2007, as Texas Fraternal Week.

**HR 2057** (by Gallego), Congratulating Mr. and Mrs. Jose Luis Nanez of Del Rio on their 50th wedding anniversary.

**HR 2059** (by Gallego), Honoring the members of the Moreno/Rangel Legislative Leadership Program Class of 2007.

**HR 2060** (by Smithee), Honoring the West Texas A&M University football team for its success during the 2005 and 2006 seasons.

**HR 2062** (by Smithee), Honoring Dr. Russell Long of Amarillo on his professional achievements and congratulating him on his designation as president emeritus of West Texas A&M University.

**HR 2065** (by Hochberg and Naishtat), Honoring Dr. Phil Hatlen on his retirement from the Texas School for the Blind and Visually Impaired.

**HR 2069** (by Anderson), Honoring Dorothy Harris of Waco on her receipt of a Communities In Schools Best of Texas Award in the category of Parent of the Year.

**HR 2070** (by Anderson), Honoring Jessica Hicks of Waco on her receipt of a Communities In Schools Best of Texas Award in the category of Principal of the Year.

**HR 2072** (by Hartnett), Congratulating Patrick Simpson Crim of Dallas on achieving the rank of Eagle Scout.

**HR 2073** (by Hamilton), Honoring Ramon Nunez and Ramon's Village Resort in Belize.

**HR 2074** (by Y. Davis), Congratulating the Reverend Norvell Allen and Opal Allen on their 50th wedding anniversary.

**HR 2076** (by Rodriguez), Recognizing San Juan Diego Catholic High School for the outstanding education it provides students.

**HR 2078** (by Rodriguez), Honoring the Latin variety band Los Curanderos of Austin.

**HR 2079** (by Rodriguez), Congratulating Martin Middle School in Austin on being authorized to offer the International Baccalaureate Middle Years Programme and commending its administrators and faculty on their impressive work.

**HR 2080** (by Rodriguez), Recognizing Chris Ernest of Del Valle High School as a 2006-2007 State Farm Scholar-Athlete.

**HR 2081** (by T. Smith), Congratulating members of Brownie Troop No. 1422 on the occasion of the troop's May 21, 2007, bridging ceremony.

**HR 2082** (by T. Smith), Congratulating the 2007 top 10 graduates of L. D. Bell High School in Hurst.

**HR 2083** (by T. Smith), Congratulating the 2007 top 10 graduates of Trinity High School in Euless.

**HR 2084** (by T. Smith), Congratulating Harold "Hal" and Ethel Della Johnston of Euless on their 60th wedding anniversary.

**HR 2085** (by Goolsby), Congratulating Matt Berry of Austin on his receipt of the Woodworth Memorial Award from the Independent Insurance Agents & Brokers of America.

**HR 2086** (by Peña), Honoring Humberto Alejandro Hernandez of Edinburg on his service as a legislative intern in the office of State Representative Aaron Pena.

**HR 2087** (by Peña), Congratulating David George of Edinburg on being named salutatorian of the Edinburg North High School Class of 2007.

**HR 2088** (by Peña), Congratulating Matthew Hernandez of McAllen on being named valedictorian of the Edinburg North High School Class of 2007.

**HR 2089** (by Peña), Congratulating Francisco Ivan Garcia on being named the 2007 valedictorian of La Joya High School in Hidalgo County.

**HR 2090** (by Peña), Honoring Ramon and Beatrice Villarreal of Edinburg on their 50th wedding anniversary.

**HR 2091** (by Flynn), Congratulating Bob and Pattye Parker of Edgewood on their 50th wedding anniversary.

**HR 2092** (by Flynn), Honoring Lloyd and Janet Webb of Greenville on their 35th wedding anniversary.

**HR 2093** was withdrawn.

**HR 2095** (by Lucio), Honoring Rogelio Ernesto Chanes on being elected president of the Student Government Association at The University of Texas at Brownsville.

**HR 2096** (by Peña), Congratulating Anna Lee Mireles on being named the Class of 2007 valedictorian of La Villa High School.

**HR 2097** (by Peña), Congratulating Cassandra Roxanne Rocha on being named the Class of 2007 salutatorian of La Villa High School in Hidalgo County.

**HR 2098** (by Peña), Congratulating Carolee Ann Hinojosa on being named the Class of 2007 salutatorian of La Joya High School.

**HR 2099** (by McClendon), Honoring the 100th birthday of Arbie Bland of San Antonio.

**HR 2101** (by McClendon), Congratulating Breakthrough Gospel Promotions on its first anniversary.

**HR 2102** (by McClendon), Congratulating Patricia A. Campbell on the occasion of her retirement from Lackland Air Force Base.

**HR 2103** (by McClendon), Recognizing the 2007 South Texas Black Business Expo hosted by the Alamo City Black Chamber of Commerce.

**HR 2104** (by McClendon), Congratulating Gloria Dean Randle Scott on her many contributions and accomplishments.

**HR 2106** (by McClendon), Commending the International Association of Black Professional Firefighters for its myriad contributions.

**HR 2108** (by McClendon), Honoring St. Paul United Methodist Church in San Antonio on its 140th anniversary.

**HR 2109** (by McClendon), Congratulating Gloria Lynn Ray on being named Woman of the Year by St. Paul United Methodist Church.

**HR 2110** (by McClendon), Congratulating Betty Joan Guilmenot Green of San Antonio on her 75th birthday.

**HR 2111** (by McClendon), Commending the Cherice Cochrane Mentoring For Success Foundation for its efforts in behalf of children.

**HR 2112** (by McClendon), Recognizing February 7, 2007, as National Black HIV/AIDS Awareness and Information Day.

**HR 2113** (by McClendon), Congratulating the 2007-A Citizen Police Academy graduating class.

**HR 2114** (by McClendon), Commending Rae Lewis Thornton for her many endeavors.

**HR 2116** (by McClendon), Congratulating Warren Allison Guilmenot on his 85th birthday.

**HR 2117** (by McClendon), Congratulating Juanita Mildred Jackson Guilmenot of San Antonio on her 80th birthday.

**HR 2118** (by McClendon), Recognizing Vickie Winans for her outstanding career.

**HR 2119** (by McClendon), In recognition of the Texas visit of Marva Smith Battle-Bey.

**HR 2121** (by McClendon), Congratulating Reverend Claude William Black, Jr., on his 90th birthday.

**HR 2122** (by Gattis), Congratulating Roderick W. Holcombe on his retirement as director of the Milam County Health Unit.

**HR 2123** (by Gattis), Congratulating Rick Zinsmeyer on his retirement as the Williamson County director of adult probation.

**HR 2126** (by Taylor), Honoring Mel Measeles for his service on the Friendswood City Council.

**HR 2127** (by Bohac), Congratulating Wayne F. and Ruby E. Schaper of Houston on their 50th wedding anniversary.

**HR 2128** (by Hughes), Congratulating Jerry and Patricia Berry of Harrison County on their 50th wedding anniversary.

**HR 2129** (by Hughes), Congratulating Edsel and Fayrine Green of Longview on their 60th wedding anniversary.

**HR 2130** (by Hughes), Congratulating Charles and Margaret Maxwell of Waskom on their 50th wedding anniversary.

**HR 2132** was previously adopted.

**HR 2136** (by Morrison), Commemorating the 60th anniversary of First Christian Church (Disciples of Christ) in Victoria.

**HR 2138** (by Gattis), Honoring former Williamson County District Judge William S. Lott on his 89th birthday.

**HR 2139** (by Gattis), Commending Dr. Fannie Lee Lovelady Dawson Spain for her contributions as an educator.

**HR 2140** (by Kolkhorst), Congratulating the town of Richards on its centennial.

**HR 2142** was previously adopted.

**HR 2143** (by Murphy), Honoring Keep Houston Beautiful for its participation in Keep America Beautiful's national Great American Cleanup campaign.

**HR 2145** (by W. Smith), Honoring Janie Harris of Baytown for her 37-year career in education.

**HR 2146** (by W. Smith), Congratulating the Honorable Jennifer Elrod on her nomination to the Fifth Circuit Court of Appeals.

**HR 2148** (by Peña), Congratulating students of Edcouch-Elsa High School on being named first runner-up at the 4-A UIL One-Act Play State Contest.

**HR 2150** (by Craddick), Congratulating the 2007 Excellence in Teaching Award winners and honorees from Midland County.

**HR 2151** (by Craddick), Congratulating the 2007 Abell-Hanger Foundation Unsung Hero Award winners and honorees from Midland County.

**HR 2152** (by Naishtat), Congratulating the Science Olympiad Team of the Liberal Arts and Science Academy at LBJ High School in Austin on placing first in the 2007 Texas Science Olympiad.

**HR 2153** (by Krusee), Honoring Stanley and Evelyn Bowers of Round Rock on their 50th wedding anniversary.

**HR 2154** (by Laubenberg), Commending John Simmons for his service as a trustee of the Wylie Independent School District Board.

**HR 2155** (by Gonzales), Honoring Larry Rincones on his outstanding tenure as the city manager of Alton.

**HR 2158** (by Dukes), Honoring Linda Shaw for serving as Democratic precinct chair of Precinct 101 in House District 46.

**HR 2159** (by Dukes), Honoring Bob Vitray for serving as Democratic precinct chair of Precinct 103 in House District 46.

**HR 2160** (by Dukes), Honoring Kenneth League for serving as Democratic precinct chair of Precinct 105 in House District 46.

**HR 2161** (by Dukes), Honoring Giles Garmon for serving as Democratic precinct chair of Precinct 106 in House District 46.

**HR 2162** (by Dukes), Honoring James "Jim" Rubarth-Lay for serving as Democratic precinct chair of Precinct 124 in House District 46.

**HR 2163** (by Dukes), Honoring Mae Marion for serving as Democratic precinct chair of Precinct 126 in House District 46.

**HR 2164** (by Dukes), Honoring David Butts for serving as Democratic precinct chair of Precinct 130 in House District 46.

**HR 2165** (by Dukes), Honoring Ruth Marie for serving as Democratic precinct chair of Precinct 133 in House District 46.

**HR 2166** (by Dukes), Honoring Steve Speir for serving as Democratic precinct chair of Precinct 135 in House District 46.

**HR 2167** (by Dukes), Honoring Pablo Ortiz for serving as Democratic precinct chair of Precinct 151 in House District 46.

**HR 2168** (by Dukes), Honoring Jules Vieau for serving as Democratic precinct chair of Precinct 152 in House District 46.

**HR 2169** (by Dukes), Honoring Tommy Craig for serving as Democratic precinct chair of Precinct 156 in House District 46.

**HR 2170** (by Dukes), Honoring Mary Sue Neilson for serving as Democratic precinct chair of Precinct 161 in House District 46.

**HR 2171** (by Dukes), Honoring Linda Pemberton for serving as Democratic precinct chair of Precinct 223 in House District 46.

**HR 2172** (by Dukes), Honoring Patty Byars for serving as Democratic precinct chair of Precinct 227 in House District 46.

**HR 2176** (by S. King), Honoring Baxter Speed of Bonham Elementary School in Abilene for his community activism.

**HR 2178** (by Zedler), Commending Lauren Stabler for her service as an aide during the 80th Legislative Session.

**HR 2179** (by Zedler), Commending Joel Fisher on his service as an aide during the 80th Legislative Session.

**HR 2180** (by Herrero), Honoring Danielle De La Paz of Calallen High School in Corpus Christi for her performance at the District 31-4A Track Meet.

**HR 2181** (by Hughes), Congratulating Bob and Freda Madsen of Mineola on their 50th wedding anniversary.

**HR 2183** (by Escobar), Congratulating U.S. Army Lieutenant Travis Atwood on his receipt of the Bronze Star Medal with Valor Device for his service during combat in Iraq.

**HR 2184** (by Jackson), Honoring Ed Brady on his retirement as the president and CEO of the Metrocrest Chamber of Commerce.

**HR 2187** (by Chavez), Honoring Esteban V. Sansores for serving as Democratic chair of Precinct 124 in El Paso County.

**HR 2188** (by Chavez), Honoring Santo "Super" Sanchez for serving as Democratic chair of Precinct 125 in El Paso County.

**HR 2189** (by Chavez), Honoring Ayle Sarinana for serving as Democratic chair of Precinct 126 in El Paso County.

**HR 2190** (by Chavez), Honoring Angie M. Garcia for serving as Democratic chair of Precinct 128 in El Paso County.

**HR 2191** (by Chavez), Honoring Debbie Hastings Rios for serving as Democratic chair of Precinct 129 in El Paso County.

**HR 2192** (by Chavez), Honoring Carlos Sandoval for serving as Democratic chair of Precinct 130 in El Paso County.

**HR 2193** (by Chavez), Honoring Emma Acosta for serving as Democratic chair of Precinct 132 in El Paso County.

**HR 2194** (by Chavez), Honoring Yolanda Ayala Alvidrez for serving as Democratic chair of Precinct 136 in El Paso County.

**HR 2195** (by Chavez), Honoring Elizabeth Barron for serving as Democratic chair of Precinct 138 in El Paso County.

**HR 2196** (by Chavez), Honoring Benny Casillas for serving as Democratic chair of Precinct 139 in El Paso County.

**HR 2197** (by Chavez), Honoring Iliana Holguin for serving as Democratic chair of Precinct 140 in El Paso County.

**HR 2198** (by Chavez), Honoring Blanca Dominguez for serving as Democratic chair of Precinct 141 in El Paso County.

**HR 2199** (by Chavez), Honoring Guadalupe Ibarra for serving as Democratic chair of Precinct 147 in El Paso County.

**HR 2200** (by Chavez), Honoring Irma S. Sanchez for serving as Democratic chair of Precinct 149 in El Paso County.

**HR 2201** (by Chavez), Honoring Lorenza Fraire for serving as Democratic chair of Precinct 152 in El Paso County.

**HR 2202** (by Chavez), Honoring Lilia Ruiz for serving as Democratic chair of Precinct 153 in El Paso County.

**HR 2203** (by Chavez), Honoring Robert A. Gandara for serving as Democratic chair of Precinct 154 in El Paso County.

**HR 2204** (by Chavez), Honoring Daniel Solis for serving as Democratic chair of Precinct 155 in El Paso County.

**HR 2205** (by Chavez), Honoring Tina Silva for serving as Democratic chair of Precinct 156 in El Paso County.

**HR 2206** (by Chavez), Honoring Mary Bowles-Grijalva for serving as Democratic chair of Precinct 157 in El Paso County.

**HR 2207** (by Chavez), Honoring Rene Leon for serving as Democratic chair of Precinct 165 in El Paso County.

**HR 2209** (by Branch), Honoring Jessica Lutrell for her exemplary service as a legislative intern in the office of State Representative Dan Branch.

**HR 2210** (by Branch), Congratulating the lacrosse team of St. Mark's School of Texas in Dallas on winning the Southwest Preparatory Conference Championship.

**HR 2211** (by Delisi), Recognizing May 14-18, 2007, as Texas Fraternal Week.

**HR 2214** was previously adopted.

**HR 2215** (by Gonzalez Toureilles), Honoring Sergeant First Class Felipe Leal, Jr., of Kenedy for his exceptional service to his country.

**HR 2216** (by Gonzalez Toureilles), Congratulating Father Seamus Joseph McGowan of Corpus Christi on being elevated to Monsignor and commending him on 50 years of service in the priesthood.

**HR 2217** (by Dutton), Congratulating Monica Segundo-Grosser as a Lake Houston Science Collaborative honoree.

**HR 2218** (by Dutton), Congratulating Holly Miller as a Lake Houston Science Collaborative honoree.

**HR 2219** (by Dutton), Congratulating Alisa Lott as a Lake Houston Science Collaborative honoree.

**HR 2220** (by Dutton), Congratulating Debbie Krenek as a Lake Houston Science Collaborative honoree.

**HR 2221** (by Dutton), Congratulating Tara Brandt as a Lake Houston Science Collaborative honoree.

**HR 2222** (by Dutton), Congratulating Sandra Carley as a Lake Houston Science Collaborative honoree.

**HR 2223** (by Dutton), Congratulating Robert Cunningham as a Lake Houston Science Collaborative honoree.

**HR 2224** (by Dutton), Congratulating Sara Brent as a Lake Houston Science Collaborative honoree.

**HR 2227** (by Gattis), Commemorating Memorial Day 2007.

**HR 2228** (by Vaught and Goolsby), Congratulating Richardson ISD on winning the H-E-B Excellence in Education Award for large districts.

**HR 2229** (by Vaught), Congratulating the girls basketball team of Bishop Lynch High School in Dallas on winning the Texas Association of Private and Parochial Schools Class 6A state championship.

**HR 2230** was withdrawn.

**HR 2231** (by Vaught), Congratulating Eric Godat of Woodrow Wilson High School in Dallas on pitching two consecutive no-hitters.

**HR 2234** (by S. King), Honoring Kay Whitton for her work with the UIL academic team at Jim Ned High School in Tuscola.

**SCR 58** (Crownover - House Sponsor), Designating Lewisville Lake as the Urban Bass Fishing Capital of Texas.

The resolutions were adopted.

The following memorial resolutions were laid before the house:

**HR 1886** (by W. Smith), In memory of Sean Michael Dubose of Spring.

**HR 1938** (by R. Cook), In memory of former State Representative Jean Edmond Hosey of La Grange.

**HR 2034** (by Gattis), In memory of Norman Gus "Bunky" Whitlow of Round Rock.

**HR 2049** (by Hilderbran), In memory of Sandra Davison of Kerrville.

**HR 2051** (by Vaught), In memory of Russell Plunk of Dallas.

**HR 2052** was previously adopted.

**HR 2058** (by Gallego), In memory of Alfredo Granado, Jr., of Fort Davis.

**HR 2061** (by Smithee), In memory of Frances Dudley of Austin.

**HR 2068** (by Anderson, et al.), In memory of Elton "Shorty" Stuckly, Sr., of Penelope.

**HR 2071** (by Anderson), In memory of Henrietta E. Snokhous of West.

**HR 2075** (by Rodriguez), In memory of Kay Longcope of Austin.

**HR 2077** (by Rodriguez), In memory of Emilia Sanchez Hernandez of Austin.

**HR 2094** (by Darby), In memory of Roy Farris Bennett of Uvalde.

**HR 2100** (by McClendon), In memory of the Reverend Hamice R. James, Jr., of San Antonio.

**HR 2105** (by McClendon), In memory of Katherine Moore Richardson of San Antonio.

**HR 2107** (by McClendon), In memory of Earnest Kuykendall of San Antonio.

**HR 2115** (by McClendon), In memory of Loraine Beatrice Sprott Whittier of San Antonio.

**HR 2120** (by McClendon), In memory of John Etta Brent Slaughter of San Antonio.

**HR 2125** (by Flores), In memory of Maria Celeste Valdez.

**HR 2141** (by Eiland), In memory of former State Representative Jean Edmond Hosey of La Grange.

**HR 2144** (by W. Smith), In memory of Billy Glyn Carlisle of Deer Park.

**HR 2147** (by W. Smith), In memory of Peggy Tieman of Highlands.

**HR 2149** (by Hilderbran), In memory of Claud Bennett Jordan of Ingram.

**HR 2174** was previously adopted.

**HR 2177** (by Hilderbran), In memory of Charles Lee "Chuck" Orr of Kerrville.

**HR 2185** (by Chavez), In memory of Dwight Lee "Shew" Shewmaker of El Paso.

**HR 2186** (by Chavez), In memory of Church of God in Christ Presiding Bishop G. E. Patterson.

**HR 2208** (by Harless), In memory of Kenneth Curtis Ward of Houston.

**HR 2213** (by Murphy, Callegari, Elkins, and Woolley), In memory of Harris County Constable Glen D. Cheek.

**HR 2232** was previously adopted.

**HR 2233** was previously adopted.

**HR 2235** (by Bohac), In memory of Barbara Engbrock Boyer of Houston.

The resolutions were unanimously adopted by a rising vote.

### **MOTIONS TO ADD NAMES**

On motion of Representative Gallego, the names of all the members of the house were added to **HR 434**, **HR 2057**, **HR 2058**, and **HR 2059** as signers thereof.

On motion of Representative Vaught, the names of all the members of the house were added to **HR 2052** and **HR 2232** as signers thereof.

On motion of Representative Latham, the names of all the members of the house were added to **HR 2213** as signers thereof.

### **MESSAGE FROM THE SENATE**

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

(Hamilton in the chair)

(Creighton and Garcia now present)

### **HR 1608 - READ**

**(by Naishtat)**

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

**HR 1608**, In memory of Susan C. Cranford of Austin.

### **INTRODUCTION OF GUESTS**

The chair recognized Representative Naishtat who introduced family members of Susan C. Cranford.

### **RESOLUTIONS REFERRED TO COMMITTEES**

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

(Speaker in the chair)

### **HR 2403 - READ**

**(by Strama)**

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

**HR 2403**, Congratulating D. L. "Dally" Willis on the occasion of his 87th birthday.

### **HR 2403 - MOTION TO ADD NAMES**

On motion of Representative Gallego, the names of all the members of the house were added to **HR 2403** as signers thereof.

(J. Davis and Zerwas now present)

### **HR 1829 - ADOPTED**

**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 1829**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1829**, Commending the Honorable Robert D. Hunter for his service to his state as a member of the Texas House of Representatives.

**HR 1829** was read and was adopted.

On motion of Speaker Craddick, the names of all the members of the house were added to **HR 1829** as signers thereof.

### **INTRODUCTION OF GUEST**

The speaker recognized Representative S. King who introduced the Honorable Robert D. Hunter.

(Puente in the chair)

### **HR 2475 - ADOPTED (by Solomons)**

Representative Solomons moved to suspend all necessary rules to take up and consider at this time **HR 2475**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2475**, Commending the Honorable Margaret Robbins for her years of service to the Texas judicial system.

**HR 2475** was read and was adopted.

On motion of Representative Solomons, the names of all the members of the house were added to **HR 2475** as signers thereof.

(Hernandez and Turner now present)

### **HR 1942 - READ (by Giddings and Goolsby)**

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

**HR 1942**, Honoring former Dallas Cowboy Everson Walls for donating a kidney to his ailing former teammate, Ron Springs.

### **HR 1942 - MOTION TO ADD NAMES**

On motion of Representatives Giddings and Hodge, the names of all the members of the house were added to **HR 1942** as signers thereof.

### **HR 1942 - ADDRESS BY REPRESENTATIVE GIDDINGS**

Thank you, Mr. Speaker and members. Representative Tony Goolsby and I talked Everson into coming today. He was driving, as a matter of fact, to Coach Eddie Robinson's funeral. He really didn't think that he needed to be recognized for doing what he thought was right and something that was an act of love. Mr. Walls, you may have been a hero when you were a Dallas Cowboy, but football is just a game. Now you really are a hero because this is life, and this is not a game. A lot of people have stood where Everson Walls stands today. Few have been more deserving of the recognition. You remind us all, Mr. Walls, that one of God's greatest gifts to mankind is the gift of friendship and that gift really does

keep on giving. And as an example of the kind of friend that Mr. Walls is, he has with him today Vernan McDunnal that he has known since he was in fifth grade and they went through high school together and played sports together. Additionally, with Mr. Walls today is Pam Sylveltry of the Southwest Transplant Alliance and she will be set up in E1 to sign up any organ donors.

#### INTRODUCTION OF GUEST

The chair recognized Representatives Giddings and Goolsby who introduced Everson Walls who briefly addressed the house.

(Speaker in the chair)

(Anchia now present)

#### REMARKS ORDERED PRINTED

Representative Goolsby moved to print remarks by Representative Giddings.

The motion prevailed.

#### HR 2230 - ADOPTED (by Vaught)

Representative Vaught moved to suspend all necessary rules to take up and consider at this time **HR 2230**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2230**, Honoring the soldiers of the 71st Brigade 36th Infantry Division for their service to our state and nation.

**HR 2230** was read and was adopted.

On motion of Representatives Berman and Escobar the names of all the members of the house were added to **HR 2230** as signers thereof.

#### HR 2488 - ADOPTED (by Vaught)

Representative Vaught moved to suspend all necessary rules to take up and consider at this time **HR 2488**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2488**, Honoring the 3rd Armored Cavalry Regiment on its receipt of a Valorous Unit Award for heroic actions in Iraq.

**HR 2488** was read and was adopted.

On motion of Representatives Berman and Escobar, the names of all the members of the house were added to **HR 2488** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Vaught who introduced soldiers of the 71st Brigade 36th Infantry Division and the 3rd Armored Cavalry Regiment.

(Taylor in the chair)

**INTRODUCTION OF GUESTS**

The chair recognized Representative Dutton who introduced representatives of Texas Children's Hospital.

**HR 2485 - ADOPTED  
(by Farabee)**

Representative Farabee moved to suspend all necessary rules to take up and consider at this time **HR 2485**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2485**, Honoring the House Research Organization for their efforts.

**HR 2485** was read and was adopted.

On motion of Representative Farabee, the names of all the members of the house were added to **HR 2485** as signers thereof.

(Woolley now present)

**HR 2059 - READ  
(by Gallego)**

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

**HR 2059**, Honoring the members of the Moreno/Rangel Legislative Leadership Program Class of 2007.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Gallego who introduced interns of the Moreno/Rangel Legislative Leadership Program.

(Speaker in the chair)

(Hartnett and Van Arsdale now present)

**HR 2545 - ADOPTED  
(by Dutton)**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 2545**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2545**, Honoring George Thomas, general manager of KTSU-FM in Houston, for his professional achievements.

**HR 2545** was read and was adopted.

### INTRODUCTION OF GUEST

The speaker recognized Representative Dutton who introduced George Thomas.

(Noriega now present)

### **HB 772 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 772**, A bill to be entitled An Act relating to social studies conducted in certain suits affecting the parent-child relationship.

Representative Dutton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 772**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 772**: Dutton, chair; Farrar, Hartnett, Phillips, and Thompson.

### **HB 1886 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1886**, A bill to be entitled An Act relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.

Representative Callegari moved to concur in the senate amendments to **HB 1886**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1735): 128 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Miller; Morrison; Murphy; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Latham.

Present, not voting — Mr. Speaker(C).

Absent — Anderson; Chavez; Davis, J.; Delisi; Deshotel; Hill; King, S.; Kolkhorst; Menendez; Merritt; Miles; Moreno; Mowery; Noriega; O'Day; Oliveira; Peña; Raymond; Smith, T.; Thompson.

### STATEMENTS OF VOTE

When Record No. 1735 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

When Record No. 1735 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

When Record No. 1735 was taken, I was temporarily out of the house chamber. I would have voted yes.

T. Smith

### Senate Committee Substitute

**CSHB 1886**, A bill to be entitled An Act relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.

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

SECTION 1. Sections 271.111(7) and (10), Local Government Code, are amended to read as follows:

(7) "Facility" means, unless otherwise specifically provided, buildings the design and construction of which are governed by accepted building codes. The term does not include:

(A) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or

(B) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

(10) "Governmental entity" means a municipality, county, hospital district, water district or authority created under Section 59, Article XVI, Texas Constitution, including a river authority or conservation and reclamation district, or a defense base development authority established under Chapter 379B ~~[378 as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999]~~.

SECTION 2. Section 271.116, Local Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this section "facility" means an improvement to real property.

SECTION 3. Section 271.118, Local Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In this section "facility" means an improvement to real property.

SECTION 4. Section 271.120(i), Local Government Code, is amended to read as follows:

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the facility [those services shall be provided in accordance with applicable law]. If the architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

SECTION 5. Chapter 271, Local Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL WORKS PROJECTS

Sec. 271.181. DEFINITIONS. In this subchapter:

(1) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(2) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

(3) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.

(4) "Design criteria package" means a set of documents that:

(A) provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project; and

(B) permits a design-build firm to:

(i) assess the scope of work and the risk involved; and

(ii) submit a proposal on the project.

(5) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(6) "Local governmental entity" means a municipality, a county, a river authority, a defense base development authority established under Chapter 379B, a municipally owned water utility with a separate governing board appointed by the governing body of a municipality, or any other special district or authority authorized by law to enter into a public works contract for a civil works project. The term does not include a water district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, with a population of less than 50,000.

Sec. 271.182. APPLICABILITY. (a) Before September 1, 2009, this subchapter applies to a local governmental entity with a population of 500,000 or more within its geographic boundaries or service area.

(b) On or after September 1, 2009, and before September 1, 2011, this subchapter applies to a local governmental entity with a population of more than 100,000 within its geographic boundaries or service area.

Sec. 271.183. APPLICABILITY OF OTHER LAW. (a) The purchasing requirements of Section 361.426, Health and Safety Code, apply to purchases by a local governmental entity made under this subchapter.

(b) Except as provided by this section, to the extent of any conflict, this subchapter prevails over any other law relating to the purchasing of goods and services except a law relating to contracting with historically underutilized businesses.

Sec. 271.184. NOTICE REQUIREMENTS. (a) A local governmental entity shall advertise or publish notice of requests for bids, proposals, or qualifications in any manner prescribed by law.

(b) For a contract entered into by a local governmental entity under any of the methods provided by this subchapter, the entity shall publish notice of the time and place the bid or proposals or the request for qualifications will be received and opened in any manner prescribed by law.

Sec. 271.185. CONTRACTS FOR CIVIL WORKS PROJECTS: DESIGN-BUILD. (a) A local governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project. In using this method and in entering into a contract for the services of a design-build firm, the contracting local governmental entity and the design-build firm shall follow the procedures provided by this subchapter.

(b) A contract for a project under this subchapter may cover only a single integrated project. A local governmental entity may not enter into a contract for aggregated projects at multiple locations. For purposes of this subsection:

(1) if a metropolitan transit authority created under Chapter 451, Transportation Code, enters into a contract for a project involving a bus rapid transit system created under Chapter 451, Transportation Code, the bus rapid transit system is a single integrated project; and

(2) a water treatment plant, including a desalination plant, that includes treatment facilities, well fields, and pipelines is a single integrated project.

(c) A local governmental entity shall use the following criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project:

(1) the extent to which the entity can adequately define the project requirements;

(2) the time constraints for the delivery of the project;

(3) the ability to ensure that a competitive procurement can be held; and

(4) the capability of the entity to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

(d) A local governmental entity shall make a formal finding on the criteria described by Subsection (c) before preparing a request for qualifications under Section 271.189.

Sec. 271.186. LIMITATION ON NUMBER OF PROJECTS. (a) During the first four years that this subchapter applies to a local governmental entity under Section 271.182:

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than three projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 may, under this subchapter, enter into contracts for not more than two projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

(b) After the period described by Subsection (a):

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 may, under this subchapter, enter into contracts for not more than four projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

(c) For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.

Sec. 271.187. USE OF ENGINEER. (a) The local governmental entity shall select or designate an engineer who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works project. The selected or designated engineer has full responsibility for complying with Chapter 1001, Occupations Code.

(b) If the engineer is not a full-time employee of the local governmental entity, the local governmental entity shall select the engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

Sec. 271.188. USE OF OTHER PROFESSIONAL SERVICES. (a) The local governmental entity shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the civil works project by the entity:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) The local governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004, Government Code.

Sec. 271.189. REQUEST FOR QUALIFICATIONS. (a) The local governmental entity shall prepare a request for qualifications that includes:

- (1) information on the civil works project site;
- (2) project scope;
- (3) project budget;
- (4) project schedule;
- (5) criteria for selection under Section 271.191 and the weighting of the

criteria; and

(6) other information that may assist potential design-build firms in submitting proposals for the project.

(b) The local governmental entity shall also prepare a design criteria package as described by Section 271.190.

Sec. 271.190. CONTENTS OF DESIGN CRITERIA PACKAGE. A design criteria package may include, as appropriate:

(1) budget or cost estimates;  
(2) information on the site;  
(3) performance criteria;  
(4) special material requirements;  
(5) initial design calculations;  
(6) known utilities;  
(7) capacity requirements;  
(8) quality assurance and quality control requirements;  
(9) the type, size, and location of structures; and  
(10) notice of any ordinances, rules, or goals adopted by the local governmental entity relating to awarding contracts to historically underutilized businesses.

Sec. 271.191. EVALUATION OF DESIGN-BUILD FIRMS. (a) The local governmental entity shall receive proposals and shall evaluate each offeror's experience, technical competence, capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted at this stage.

(b) Each offeror must:

(1) select or designate each engineer that is a member of its team based on demonstrated competence and qualifications, in the manner provided by Section 2254.004, Government Code; and

(2) certify to the local governmental entity that each selection or designation was based on demonstrated competence and qualifications, in the manner provided by Section 2254.004, Government Code.

(c) The local governmental entity shall qualify offerors to submit additional information and, if the entity chooses, to interview for final selection.

Sec. 271.192. SELECTION OF DESIGN-BUILD FIRM. The local governmental entity shall select a design-build firm using a combination of technical and cost proposals as provided by Section 271.193.

Sec. 271.193. PROCEDURES FOR COMBINATION OF TECHNICAL AND COST PROPOSALS. (a) A local governmental entity shall request proposals from design-build firms identified under Section 271.191(c). A firm must submit a proposal not later than the 180th day after the date the local governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:

(1) a design criteria package;

(2) if the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;

(3) detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and

(4) the relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.

(b) The technical proposal is a component of the proposal under this section.

(c) Each proposal must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) project approach;

(2) anticipated problems;

(3) proposed solutions to anticipated problems;

(4) ability to meet schedules;

(5) conceptual engineering design; and

(6) other information requested by the local governmental entity.

(e) The local governmental entity shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The local governmental entity may reject as nonresponsive any firm that makes a significant change to the composition of its firm as initially submitted. The local governmental entity shall subsequently open, evaluate, and score the cost proposals from firms that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The local governmental entity shall select the design-build firm in accordance with the formula provided in the request for proposals.

Sec. 271.194. NEGOTIATION. After selecting the highest ranked design-build firm under Section 271.193, the local governmental entity shall first attempt to negotiate a contract with the selected firm. If the local governmental entity is unable to negotiate a satisfactory contract with the selected firm, the entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Sec. 271.195. ASSUMPTION OF RISKS. The local governmental entity shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the local governmental entity;

(B) unknown or differing site conditions unless otherwise provided by the local governmental entity in the request for proposals and final contract;

(C) regulatory permitting, if the local governmental entity is responsible for those risks and costs by law or contract; and

(D) natural disasters and other force majeure events unless otherwise provided by the local governmental entity in the request for proposals and final contract; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

Sec. 271.196. STIPEND AMOUNT FOR UNSUCCESSFUL OFFERORS.

(a) Unless a stipend is paid under Subsection (c), the design-build firm retains all rights to the work product submitted in a proposal. The governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The local governmental entity may not make use of any unique or nonordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.

(b) Each employee and agent of the local governmental entity must enter into a confidentiality agreement that prohibits the disclosure of the contents of the unsuccessful proposal with any other party, including the successful offeror. Any violation of a confidentiality agreement or any use by the local governmental entity of a unique or nonordinary design element, technique, method, or process covered by a confidentiality agreement may be enforced by an injunctive or declaratory action. The local governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror.

(c) The local governmental entity may offer an unsuccessful design-build firm that submits a response to the entity's request for additional information under Section 271.193 a stipend for preliminary engineering costs associated with the development of the proposal. The stipend must be one-half of one percent of the contract amount and must be specified in the initial request for proposals. If the offer is accepted and paid, the local governmental entity may make use of any work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the local governmental entity of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the entity and does not confer liability on the recipient of the stipend under this subsection.

Sec. 271.197. COMPLETION OF DESIGN. (a) Following selection of a design-build firm under this subchapter, the firm's engineers shall submit all design elements for review and determination of scope compliance to the local governmental entity before or concurrently with construction.

(b) An appropriately licensed design professional shall sign and seal construction documents before the documents are released for construction.

Sec. 271.198. FINAL CONSTRUCTION DOCUMENTS. At the conclusion of construction, the design-build firm shall supply to the local governmental entity a record set of construction documents for the project prepared as provided by Chapter 1001, Occupations Code.

Sec. 271.199. PERFORMANCE OR PAYMENT BOND. (a) A payment or performance bond is not required for the portion of a design-build contract under this section that includes design services only.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the local governmental entity must each be in an amount equal to the construction budget, as specified in the design criteria package.

(c) If the local governmental entity awards a design-build contract under Section 271.193, the design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the local governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before the commencement of construction.

SECTION 6. Chapter 271.112, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) If the contract for a facility involves the use of state or federal highway funds, the purchasing requirements of the appropriate state or federal funding entity apply, unless otherwise waived by the appropriate state or federal funding entity.

SECTION 7. Section 271.904(a), Local Government Code, is amended to read as follows:

(a) A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify, ~~or~~ hold harmless, or defend the governmental agency against liability for damage, other than liability for damage that is caused by or results from an act of ~~the~~ negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by ~~or~~ the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control ~~[governmental agency or its agent or employee].~~

SECTION 8. Section 44.041(i), Education Code, is amended to read as follows:

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, the district shall select or designate an architect or engineer to prepare the construction documents for the facility ~~[those services shall be provided in accordance with applicable law].~~ If the architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

SECTION 9. Section 46.008, Education Code, is amended to read as follows:

Sec. 46.008. STANDARDS. (a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) Any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007, for use as a school facility, regardless of whether the building is an industrialized building as defined by Section 1202.003, Occupations Code, must be inspected as provided by Subchapter E, Chapter 1202, Occupations Code, to ensure compliance with the mandatory building codes or approved designs, plans, and specifications.

SECTION 10. Section 51.784(i), Education Code, is amended to read as follows:

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, the board shall select or designate an architect or engineer to prepare the construction documents for the facility ~~[those services shall be provided in accordance with applicable law]~~. If the architect or engineer is not a full-time employee of the institution, the board shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

SECTION 11. Subchapter A, Chapter 2254, Government Code, is amended by adding Section 2254.007 to read as follows:

Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section 2151.002. In this subsection, "state agency" includes the Texas Building and Procurement Commission.

SECTION 12. Section 2254.003(b), Government Code, is amended to read as follows:

(b) The professional fees under the contract~~[~~  
~~(1) must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and~~  
~~(2)]~~ may not exceed any maximum provided by law.

SECTION 13. Section 431.101(g), Transportation Code, is amended to read as follows:

(g) A local government corporation ~~[created by a navigation district]~~ must comply with all state law related to the design and construction of projects, including the procurement of design and construction services, that applies to the local government ~~[navigation district]~~ that created the corporation.

SECTION 14. Subchapter D, Chapter 431, Transportation Code, is amended by adding Section 431.110 to read as follows:

Sec. 431.110. COMPETITIVE BIDDING EXCEPTION FOR CERTAIN IMPROVEMENTS. Any competitive bidding requirement or restriction on a local government that created a local government corporation does not apply to an expenditure by the local government corporation for:

(1) an improvement:

(A) that is constructed in a reinvestment zone; and

(B) the construction of which is managed by a private venture participant; or

(2) an improvement constructed by the corporation for which more than 50 percent of the construction is funded by a private entity.

SECTION 15. Section 60.452, Water Code, is amended by adding Subsection (c) to read as follows:

(c) Subchapter J, Chapter 271, Local Government Code, does not apply to this subchapter.

SECTION 16. Section 60.464(i), Water Code, is amended to read as follows:

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, the district shall select or designate an architect or engineer to prepare the construction documents for the facility [those services shall be provided in accordance with applicable law]. If the architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

SECTION 17. The changes in law made by this Act apply only to a contract for which a request for proposals or a request for qualifications is first published or distributed on or after the effective date of this Act. A contract for which a request for proposals or a request for qualifications is first published or distributed before the effective date of this Act is governed by the law in effect at the time the request is published or distributed, and the former law is continued in effect for that purpose.

SECTION 18. This Act takes effect September 1, 2007.

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

Amend **CSHB 1886** (committee printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 252.021(a), Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$25,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Subchapter H or J, Chapter 271.

(2) In SECTION 5 of the bill, in added Section 271.196, Local Government Code (page 6, lines 16-36), strike Subsections (a) and (b) and substitute the following:

(a) Unless a stipend is paid under Subsection (c), the design-build firm retains all rights to the work product submitted in a proposal. The local governmental entity may not release or disclose to any person, including the successful offeror, the work product contained in an unsuccessful proposal. The local governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The local governmental entity or its agents may not make use of any unique or nonordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.

(b) A violation of this section voids the contract for the project entered into by the local governmental entity. The local governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror. Any interested party may bring an action for an injunction, declaratory relief, or damages for a violation of this section. A party who prevails in an action under this subsection is entitled to reasonable attorney's fees as approved by the court.

(3) In SECTION 5 of the bill, at the end of added Section 271.196, Local Government Code (page 6, between lines 50 and 51), insert the following:

(d) Notwithstanding other law, including Chapter 552, Government Code, work product contained in an unsuccessful proposal submitted and rejected under this subchapter is confidential and may not be released unless a stipend offer has been accepted and paid as provided by Subsection (c).

(4) In SECTION 5 of the bill, added Section 271.199(b), Local Government Code (page 7, line 3), between "budget" and the comma, insert ", if commercially available and practical".

(5) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 791.011, Government Code, is amended by adding Subsection (h) to read as follows:

(h) An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 3)**

Amend the Senate Committee Substitute to **HB 1886** (Senate committee printing), Sec. 271.181 on page 2, line 34 by inserting after "include" the words "a regional tollway authority created under Chapter 366, Transportation Code; a regional mobility authority created under Chapter 370, Transportation Code; or".

**HB 1146 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1146**, A bill to be entitled An Act relating to the authority of small cities to conduct elections only by mail.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1146**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1146**: Bonnen, chair; Berman, Castro, Flynn, and Hardcastle.

**HB 147 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 147**, A bill to be entitled An Act relating to the deferral of an administrative penalty imposed by the Texas Commission on Environmental Quality against certain utilities and districts.

Representative Phillips moved to concur in the senate amendments to **HB 147**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1736): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente;

Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Geren; Hill; Kolkhorst; Miles; Moreno; Mowery; Oliveira; Peña; Smith, T.; Villarreal.

### STATEMENT OF VOTE

When Record No. 1736 was taken, I was temporarily out of the house chamber. I would have voted yes.

T. Smith

### Senate Committee Substitute

**CSHB 147**, A bill to be entitled An Act relating to the deferral of an administrative penalty imposed by the Texas Commission on Environmental Quality against certain utilities and districts.

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

SECTION 1. Subchapter B, Chapter 7, Water Code, is amended by adding Section 7.034 to read as follows:

Sec. 7.034. DEFERRAL OF PENALTY FOR CERTAIN UTILITY FACILITIES. (a) In this section:

(1) "District" means any district or authority created under either Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law or any conservation and reclamation district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that Chapter 49 applies to the district.

(2) "Municipally owned utility" and "water supply or sewer service corporation" have the meanings assigned by Section 13.002.

(b) The commission may allow a municipally owned utility, a water supply or sewer service corporation, or a district to defer the payment of all or part of an administrative penalty imposed under Subchapter C for a violation on the condition that the entity complies with all provisions for corrective action in a commission order to address the violation.

(c) In determining whether deferral of a penalty under this section is appropriate, the commission shall consider the factors to be considered under Section 7.053 and the following factors:

(1) the financial position of the entity and its ability to reasonably pay the costs of corrective action under the terms of a commission order;

(2) risks to public health and the environment of any delay in addressing the corrective actions as a result of limited financial resources;

(3) alternatives reasonably available to the entity for paying both the costs of corrective action and the penalty; and

(4) potential effects of the payment of the penalty on other essential public health and safety services for which the entity is responsible.

(d) At the discretion of the commission, any penalty deferred under this section becomes due and payable on a commission determination that the entity is not in compliance with a provision for corrective action in a commission order to address the violation.

SECTION 2. Section 7.034, Water Code, as added by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is covered by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

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

### **HB 191 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 191**, A bill to be entitled An Act relating to fees for issuance of specialty license plates to members and former members of the United States armed forces and their surviving spouses.

Representative Miller moved to concur in the senate amendments to **HB 191**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1737): 140 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent — Deshotel; Hill; Kolkhorst; Miles; Moreno; Mowery; Oliveira; Pierson; Smith, T.

### STATEMENTS OF VOTE

When Record No. 1737 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

When Record No. 1737 was taken, I was temporarily out of the house chamber. I would have voted yes.

T. Smith

#### Senate Committee Substitute

**CSHB 191**, A bill to be entitled An Act relating to fees for issuance of specialty license plates to members and former members of the United States armed forces and their surviving spouses.

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

SECTION 1. Sections 502.184(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) No fee is required for the replacement of lost, stolen, or mutilated specialized license plates issued under Sections 504.308 and 504.315(e) and (f).  
The fee for replacement of certain specialized license plates is:

License plates issued under:

~~[Section 504.202~~

~~[Section 504.315(e) or (e)~~

Section ~~[504.305 or]~~ 504.411

Section 504.409

(c) The fee for replacement of license plates issued under Section 504.507 ~~[502.280]~~ is the amount prescribed by the department as necessary to recover the cost of providing the replacement plates.

(d) If license plates approved under Section 504.501(b) or 504.502(c) ~~[502.274(b)]~~ are lost, stolen, or mutilated, the owner of the vehicle may obtain approval of another set of license plates as provided by Section 504.501 or 504.502, respectively ~~[502.274]~~. The fee for approval of replacement license plates is \$5.

SECTION 2. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.3015 to read as follows:

Sec. 504.3015. FEES FOR MILITARY SPECIALTY LICENSE PLATES.

(a) A person applying for a set of license plates under this subchapter shall pay the registration fee required under Chapter 502 and the applicable special plate fee required under this section, except that one set of license plates shall be issued under Section 504.308 or 504.315 without the payment of the registration fee.

(b) The fee for the issuance of one set of specialty license plates issued under Section 504.315(c), (d), or (g) is \$3. There is no additional fee for a specialty license plate issued under another provision of this subchapter.

(c) A surviving spouse applying for a set of license plates under Section 504.302 shall pay the fees required for the type of license plate for which the surviving spouse is eligible.

SECTION 3. Section 504.305(a), Transportation Code, is amended to read as follows:

- (a) The department shall issue ~~[without charge]~~ specialty license plates for:
- (1) active members of the Texas National Guard or Texas State Guard;
  - (2) retired members of the Texas National Guard or Texas State Guard who have completed 20 or more years of satisfactory federal service; and
  - (3) members of a reserve component of the United States armed forces.

SECTION 4. Section 504.306, Transportation Code, is amended to read as follows:

Sec. 504.306. PERSONS RETIRED FROM SERVICE IN MERCHANT MARINE OF THE UNITED STATES. ~~[(a)]~~ The department shall issue specialty license plates for persons retired from service in the merchant marine of the United States. The license plates must include the words "Merchant Marine." ~~[A person may be issued only one set of license plates under this section.]~~

~~[(b) The fee for issuance of the license plates is \$10.]~~

SECTION 5. Section 504.309, Transportation Code, is amended to read as follows:

Sec. 504.309. MILITARY ACADEMY LICENSE PLATES. The department shall issue ~~[without charge]~~ specialty license plates for persons who:

- (1) are graduates of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy; and
- (2) are current or former commissioned officers of the United States armed forces.

SECTION 6. Section 504.310, Transportation Code, is amended to read as follows:

Sec. 504.310. WORLD WAR II VETERANS. The department shall issue ~~[without charge]~~ specialty license plates for persons who served in the United States or Allied armed forces during World War II. The license plates must include the words "WWII Veteran."

SECTION 7. Section 504.311, Transportation Code, is amended to read as follows:

Sec. 504.311. KOREAN WAR VETERANS. The department shall issue ~~[without charge]~~ specialty license plates for persons who served in the United States armed forces after June 26, 1950, and before February 1, 1955. License plates issued under this section must include the words "Korea Veteran."

SECTION 8. Section 504.312(a), Transportation Code, is amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates for persons who served in the United States armed forces during:

- (1) the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period; or
- (2) the period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.

SECTION 9. Section 504.313, Transportation Code, is amended to read as follows:

Sec. 504.313. DESERT SHIELD OR DESERT STORM VETERANS. The department shall issue [~~without charge~~] specialty license plates for persons who served in the United States armed forces after August 1, 1990, and before April 12, 1991. License plates issued under this section must include the words "Desert Storm."

SECTION 10. Section 504.3135, Transportation Code, is amended to read as follows:

Sec. 504.3135. OPERATION IRAQI FREEDOM. The department shall issue [~~without charge~~] specialty license plates for persons who served in the United States armed forces and participated in Operation Iraqi Freedom. License plates issued under this section must include the words "Operation Iraqi Freedom."

SECTION 11. Section 504.314, Transportation Code, is amended to read as follows:

Sec. 504.314. ENDURING FREEDOM VETERANS. The department shall issue [~~without charge~~] specialty license plates for persons who served in the United States armed services and participated in Operation Enduring Freedom. The license plates must include the words "Enduring Freedom."

SECTION 12. Section 504.315, Transportation Code, is amended by adding Subsection (h) to read as follows:

(h) A vehicle registered under this section must be for the use of the applicant who qualifies under this section.

SECTION 13. Sections 504.303(b), 504.304(c), 504.307(c), 504.308(b), and 504.315(a) and (b), Transportation Code, are repealed.

SECTION 14. This Act is intended to provide consistency and uniformity in the amounts charged for the issuance of specialty plates to members and former members of the United States armed forces or surviving spouses. To the extent this Act is inconsistent with a fee charged for the issuance of a similar specialty plate under a provision added to Subchapter D, Chapter 504, Transportation Code, by another Act of the 80th Legislature, Regular Session, this Act controls.

SECTION 15. This Act takes effect September 1, 2007.

### **HB 460 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 460**, A bill to be entitled An Act relating to the offense of fraudulent use or possession of a person's identifying information.

Representative Miller moved to concur in the senate amendments to **HB 460**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1738): 136 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent — Bolton; Castro; Deshotel; Giddings; Hill; Hochberg; Kolkhorst; Miles; Moreno; Oliveira; Peña; Quintanilla; Smith, T.

#### STATEMENTS OF VOTE

When Record No. 1738 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

When Record No. 1738 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

When Record No. 1738 was taken, I was temporarily out of the house chamber. I would have voted yes.

T. Smith

#### Senate Committee Substitute

**CSHB 460**, A bill to be entitled An Act relating to the offense of fraudulent use or possession of a person's identifying information.

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

SECTION 1. Section 32.51(a)(1), Penal Code, is amended to read as follows:

(1) "Identifying information" means information that alone or in conjunction with other information identifies a person [~~an individual~~], including a person's [~~an individual's~~]:

(A) name and[;] social security number, date of birth, or [~~and~~] government-issued identification number;

(B) unique biometric data, including the person's ~~[individual's]~~ fingerprint, voice print, or ~~[and]~~ retina or iris image;

(C) unique electronic identification number, address, ~~[and]~~ routing code, or financial institution account number; and

(D) telecommunication identifying information or access device.

SECTION 2. Sections 32.51(b), (c), and (e), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses an item of identifying information of:

(1) a deceased natural person, including a stillborn infant or fetus, without legal authorization; or

(2) another person without the other person's consent ~~[and with intent to harm or defraud another].~~

(c) An offense under this section is:

(1) a state jail felony if the number of items obtained, possessed, transferred, or used is less than five;

(2) a felony of the third degree if the number of items obtained, possessed, transferred, or used is five or more but less than 10;

(3) a felony of the second degree if the number of items obtained, possessed, transferred, or used is 10 or more but less than 50; or

(4) a felony of the first degree if the number of items obtained, possessed, transferred, or used is 50 or more.

(e) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, ~~[or]~~ the other law, or both.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

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

### HR 2576 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2576**, suspending the limitations on the conferees for **HB 2261**.

(Miles and T. Smith now present)

### HB 586 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 586**, A bill to be entitled An Act relating to eligibility for dismissal of certain speeding charges on completion of a driving safety course.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 586**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1739): 140 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent — Anderson; Cook, R.; Darby; Guillen; Hopson; Kolkhorst; Moreno; Oliveira; Pickett.

### STATEMENT OF VOTE

When Record No. 1739 was taken, my vote failed to register. I would have voted yes.

Guillen

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

Amend **HB 586** as follows:

(1) In the introductory language of SECTION 1 of the bill (House engrossment page 1, lines 5 and 6), strike "Article 45.0511(b), Code of Criminal Procedure, is amended" and substitute "Articles 45.0511(b) and (c), Code of Criminal Procedure, are amended".

(2) In SECTION 1 of the bill, in Subdivision (2)(B), Subsection (b), Article 45.0511, Code of Criminal Procedure (House engrossment page 1, line 19), between "member" and "of", insert ", or the spouse or dependent child of a member,".

(3) In SECTION 1 of the bill, in Subdivision (4)(B), Subsection (b), Article 45.0511, Code of Criminal Procedure, (House engrossment page 2, line 10), between "member" and "of", insert ", or the spouse or dependent child of a member,".

(4) At the end of SECTION 1 of the bill (House engrossment page 2, between lines 18 and 19), insert the following:

(c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:

(1) a uniform certificate of completion of the driving safety course or a verification of completion of the motorcycle operator training course;

(2) unless the judge proceeds under Subsection (c-1), the defendant's driving record as maintained by the Department of Public Safety, if any, showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense;

(3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense; and

(4) if the defendant does not have a valid Texas driver's license or permit and is a member, or the spouse or dependent child of a member, of the United States military forces serving on active duty, an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as appropriate, in another state on the date the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense.

### **HB 1066 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1066**, A bill to be entitled An Act relating to health information technology and the creation of the Texas Health Services Authority.

Representative Delisi moved to concur in the senate amendments to **HB 1066**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1740): 139 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill;

Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Present, not voting — Mr. Speaker(C).

Absent — Flores; Kolkhorst; Menendez; Moreno; Oliveira; Raymond.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1740. I intended to vote no.

Flynn

### Senate Committee Substitute

**CSHB 1066**, A bill to be entitled An Act relating to health information technology and the creation of the Texas Health Services Authority.

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

SECTION 1. Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 182 to read as follows:

#### CHAPTER 182. TEXAS HEALTH SERVICES AUTHORITY

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care.

Sec. 182.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the corporation.

(2) "Corporation" means the Texas Health Services Authority.

(3) "De-identified protected health information" means protected health information that is not individually identifiable health information as that term is defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

(4) "Individually identifiable health information" means individually identifiable health information as that term is defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

(5) "Physician" means:

(A) an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code;

(B) a professional entity organized in conformity with Title 7, Business Organizations Code, and permitted to practice medicine under Subtitle B, Title 3, Occupations Code;

(C) a partnership organized in conformity with Title 4, Business Organizations Code, composed entirely of individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(D) an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) a medical school or medical and dental unit, as defined or described by Section 61.003, 61.501, or 74.601, Education Code, that employs or contracts with physicians to teach or provide medical services or employs physicians and contracts with physicians in a practice plan; or

(F) an entity wholly owned by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code.

(6) "Protected health information" means protected health information as that term is defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

[Sections 182.003-182.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION

Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE.

(a) The corporation is established to:

(1) promote, implement, and facilitate the voluntary and secure electronic exchange of health information; and

(2) create incentives to promote, implement, and facilitate the voluntary and secure electronic exchange of health information.

(b) The corporation is a public nonprofit corporation and, except as otherwise provided in this chapter, has all the powers and duties incident to a nonprofit corporation under the Business Organizations Code.

(c) The corporation is subject to state law governing nonprofit corporations, except that:

(1) the corporation may not be placed in receivership; and

(2) the corporation is not required to make reports to the secretary of state under Section 22.357, Business Organizations Code.

(d) Except as otherwise provided by law, all expenses of the corporation shall be paid from income of the corporation.

(e) The corporation is subject to Chapter 551, Government Code.

Sec. 182.052. APPLICATION OF SUNSET ACT. The corporation is subject to Chapter 325, Government Code. Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2011. The governor may order the dissolution of the corporation at any time the governor declares that the purposes of the corporation have been fulfilled or that the corporation is inoperative or abandoned.

Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 11 directors appointed by the governor, with the advice and consent of the senate.

(b) The governor shall also appoint at least two ex officio, nonvoting members representing the Department of State Health Services.

(c) The governor shall appoint as voting board members individuals who represent consumers, clinical laboratories, health benefit plans, hospitals, regional health information exchange initiatives, pharmacies, physicians, or rural health providers, or who possess expertise in any other area the governor finds necessary for the successful operation of the corporation.

(d) An individual may not serve on the board of the corporation if the individual serves on the board of any other governmental body in this state.

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) An individual may not serve on the board of the corporation, in any capacity, if the individual has made a gift or grant, in cash or in kind, to the corporation.

(g) An individual may not serve on the board of the corporation, in any capacity, if the individual is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession or entity that is engaged in the providing of health care, the review or analysis of health care, the payment for health care services or procedures, or the providing of information technology.

Sec. 182.054. TERMS OF OFFICE. Appointed members of the board serve two-year terms and may continue to serve until a successor has been appointed by the governor.

Sec. 182.055. EXPENSES. Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the board or performing other official duties authorized by the presiding officer.

Sec. 182.056. OFFICERS; CONFLICT OF INTEREST. (a) The governor shall designate a member of the board as presiding officer to serve in that capacity at the pleasure of the governor.

(b) Any board member or a member of a committee formed by the board with direct interest in a matter, personally or through an employer, before the board shall abstain from deliberations and actions on the matter in which the conflict of interest arises and shall further abstain on any vote on the matter, and may not otherwise participate in a decision on the matter.

(c) Each board member shall file a conflict of interest statement and a statement of ownership interests with the board to ensure disclosure of all existing and potential personal interests related to board business.

Sec. 182.057. PROHIBITION ON CERTAIN CONTRACTS AND EMPLOYMENT. The board may not compensate, employ, or contract with any individual who serves as a member of the board or advisory council to any other governmental body, including any agency, council, or committee, in this state.

Sec. 182.058. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority of the corporation.

Sec. 182.059. CHIEF EXECUTIVE OFFICER; PERSONNEL. The board may hire a chief executive officer. Under the direction of the board, the chief executive officer shall perform the duties required by this chapter or designated by the board. The chief executive officer may hire additional staff to carry out the responsibilities of the corporation.

Sec. 182.060. TECHNOLOGY POLICY. The board shall implement a policy requiring the corporation to use appropriate technological solutions to improve the corporation's ability to perform its functions. The policy must ensure that the public is able to interact with the corporation on the Internet.

Sec. 182.061. LIABILITIES OF AUTHORITY. Liabilities created by the corporation are not debts or obligations of the state, and the corporation may not secure any liability with funds or assets of the state except as otherwise provided by law.

Sec. 182.062. BOARD MEMBER IMMUNITY. (a) A board member may not be held civilly liable for an act performed, or omission made, in good faith in the performance of the member's powers and duties under this chapter.

(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection (a).

[Sections 182.063-182.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 182.101. The corporation may:

(1) establish statewide health information exchange capabilities, including capabilities for electronic laboratory results, diagnostic studies, and medication history delivery, and, where applicable, promote definitions and standards for electronic interactions statewide;

(2) seek funding to:

(A) implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures; and

(B) create incentives to implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures;

(3) establish statewide health information exchange capabilities for streamlining health care administrative functions including:

(A) communicating point of care services, including laboratory results, diagnostic imaging, and prescription histories;

(B) communicating patient identification and emergency room required information in conformity with state and federal privacy laws;

(C) real-time communication of enrollee status in relation to health plan coverage, including enrollee cost-sharing responsibilities; and

(D) current census and status of health plan contracted providers;

(4) support regional health information exchange initiatives by:

(A) identifying data and messaging standards for health information exchange;

(B) administering programs providing financial incentives, including grants and loans for the creation and support of regional health information networks, subject to available funds;

(C) providing technical expertise where appropriate;

(D) sharing intellectual property developed under Section 182.105;

(E) waiving the corporation's fees associated with intellectual property, data, expertise, and other services or materials provided to regional health information exchanges operated on a nonprofit basis; and

(F) applying operational and technical standards developed by the corporation to existing health information exchanges only on a voluntary basis, except for standards related to ensuring effective privacy and security of individually identifiable health information;

(5) identify standards for streamlining health care administrative functions across payors and providers, including electronic patient registration, communication of enrollment in health plans, and information at the point of care regarding services covered by health plans; and

(6) support the secure, electronic exchange of health information through other strategies identified by the board.

Sec. 182.102. PROHIBITED ACTS. (a) The corporation has no authority and shall not engage in any of the following:

(1) the collection and analysis of clinical data;

(2) the comparison of physicians to other physicians, including comparisons to peer group physicians, physician groups, and physician teams, and to national specialty society adopted quality measurements;

(3) the creation of a tool to measure physician performance compared to:

(A) peer group physicians on state and specialty levels; or

(B) objective standards;

(4) the providing of access to aggregated, de-identified protected health information to local health information exchanges and other users of quality care studies, disease management and population health assessments;

(5) providing to public health programs trended, aggregated, de-identified protected health information to help assess the health status of populations and the providing of regular reports of trends and important incidence of events to public health avenues for intervention, education, and prevention programs; or

(6) the creation of evidence-based standards for the practice of medicine.

(b) The corporation has no authority and shall not disseminate information, in any manner, to the public that compares, rates, tiers, classifies, measures, or ranks a physician's performance, efficiency, or quality of practice.

Sec. 182.103. PRIVACY OF INFORMATION. (a) Protected health information and individually identifiable health information collected, assembled, or maintained by the corporation is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) The corporation shall comply with all state and federal laws and rules relating to the transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

(c) The corporation shall develop privacy, security, operational, and technical standards to assist health information networks in the state to ensure effective statewide privacy, data security, efficiency, and interoperability across networks. The network's standards shall be guided by reference to the standards of the Certification Commission for Healthcare Information Technology or the Health Information Technology Standards Panel, or other federally approved certification standards, that exist on May 1, 2007, as to the process of implementation, acquisition, upgrade, or installation of electronic health information technology.

Sec. 182.104. SECURITY COMPLIANCE. The corporation shall:

(1) establish appropriate security standards to protect both the transmission and the receipt of individually identifiable health information or health care data;

(2) establish appropriate security standards to protect access to any individually identifiable health information or health care data collected, assembled, or maintained by the corporation;

(3) establish the highest levels of security and protection for access to and control of individually identifiable health information, including mental health care data and data relating to specific disease status, that is governed by more stringent state or federal privacy laws; and

(4) establish policies and procedures for the corporation for taking disciplinary actions against a board member, employee, or other person with access to individually identifiable health care information that violates state or federal privacy laws related to health care information or data maintained by the corporation.

Sec. 182.105. INTELLECTUAL PROPERTY. The corporation shall take commercially reasonable measures to protect its intellectual property, including obtaining patents, trademarks, and copyrights where appropriate.

Sec. 182.106. ANNUAL REPORT. The corporation shall submit an annual report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee in the senate and the house of representatives. The annual report must include financial information and a progress update on the corporation's efforts to carry out its mission.

Sec. 182.107. FUNDING. (a) The corporation may be funded through the General Appropriations Act and may request, accept, and use gifts and grants as necessary to implement its functions.

(b) The corporation may assess transaction, convenience, or subscription fees to cover costs associated with implementing its functions. All fees must be voluntary but receipt of services provided by the corporation may be conditioned on payment of fees.

(c) The corporation may participate in other revenue-generating activities that are consistent with the corporation's purposes.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

#### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a funeral:

Issett on motion of F. Brown.

#### HB 1541 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 1541.** A bill to be entitled An Act relating to preannouncement of certain promotional events and purchases by certain alcoholic beverage permit holders.

Representative F. Brown moved to concur in the senate amendments to **HB 1541.**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1741):  
138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.;

King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Isett.

Absent — Bolton; Branch; Coleman; Deshotel; Eissler; Goolsby; Kolkhorst; Moreno; Oliveira; Peña.

### Senate Committee Substitute

**CSHB 1541**, A bill to be entitled An Act relating to preannouncement of certain promotional events and purchases by certain alcoholic beverage permit holders.

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

SECTION 1. Section 102.07(g), Alcoholic Beverage Code, is amended to read as follows:

(g) Subsection (a) does not prohibit a permittee covered under Subsection (a) from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. A holder of a wholesaler's or class B wholesaler's permit may prearrange a promotional activity only for distilled spirits or wine. Notwithstanding any other provision, a [A] permittee may [not]:

(1) preannounce a promotion to a consumer~~[-if the permittee is the holder of a wholesaler's or class B wholesaler's permit];~~ or

(2) preannounce the purchase of wine or distilled spirits to a consumer.

SECTION 2. This Act takes effect September 1, 2007.

### **HB 1205 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1205**, A bill to be entitled An Act relating to the prohibition of certain employment discrimination regarding an employee who is a volunteer emergency responder.

Representative Keffer moved to concur in the senate amendments to **HB 1205**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1742): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Isett.

Absent — Delisi; Heflin; Kolkhorst; Martinez; Menendez; Moreno; Oliveira.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend Committee Substitute to **HB 1205** (engrossed version) as follows:

1) On Page 1, Line 10, in between "a" and "fire" add the following "proclamation declaring a state of disaster by the Governor of Texas or the President of the United States that includes a".

2) On page 5, lines 19-21, amend Subsection (b) as follows:

"(b) An action under this section must be brought in the county in which the place of employment is located not later than the 15th business day after~~first anniversary of~~ the date of the violation."

### **Senate Amendment No. 2 (Senate Committee Amendment No. 2)**

Amend **HB 1205** on page 3 as follows, Sec. 23.003. EXCEPTION FOR CERTAIN SMALL EMPLOYERS. (a) Except as provided by Subsection (b), this chapter does not apply to an employer for whom an absence to respond to an emergency by an employee who is a volunteer emergency responder would result in hardship by reducing the employers workforce by 50 percent.

(b) An employer described by Subsection (a) may permit an employee to provide services as a volunteer emergency responder. An employer who elects under this subsection to permit an employee to provide services as a volunteer responder is subject to this chapter. This chapter does not apply to employers with fewer than 50 employees.

### LEAVE OF ABSENCE GRANTED

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

Branch on motion of Hamilton.

### HB 2060 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2060**, A bill to be entitled An Act relating to the Texas Board of Architectural Examiners; providing penalties.

Representative Geren moved to concur in the senate amendments to **HB 2060**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1743): 126 Yeas, 11 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Keffer; King, S.; King, T.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miles; Miller; Mowery; Murphy; Noriega; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pierson; Pitts; Puente; Quintanilla; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Crabb; Harper-Brown; Hughes; King, P.; Latham; Macias; Morrison; O'Day; Phillips; Riddle; Taylor.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Bailey; Eissler; Flores; Kolkhorst; Menendez; Moreno; Naishtat; Oliveira; Pickett; Raymond.

### Senate Committee Substitute

**CSHB 2060**, A bill to be entitled An Act relating to the Texas Board of Architectural Examiners; providing penalties.

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

SECTION 1. Section 1051.0015, Occupations Code, is amended to read as follows:

Sec. 1051.0015. PURPOSE OF REGISTRATION REQUIREMENT. The purpose of Section 1051.701(a) [~~1051.301(a)~~] is to:

- (1) safeguard life, health, property, and the public welfare; and
- (2) protect the public against the irresponsible practice of architecture.

SECTION 2. Section 1051.101(b), Occupations Code, is amended to read as follows:

(b) Not more than one board member may be:

(1) a stockholder or owner of an interest in a school or college that teaches architecture, interior design, or landscape architecture; or

(2) a full-time [an officer or a] member of the faculty or administration of the [governing board of a school or college that teaches] architecture, interior design, or landscape architecture department of a school or college whose position is the primary employment of the board member.

SECTION 3. Sections 1051.107(b) and (c), Occupations Code, are amended to read as follows:

(b) The [Each January, the] board annually shall elect from its members an assistant presiding officer.

(c) The board shall appoint a secretary-treasurer of the board to serve at the pleasure of the board. ~~[The secretary-treasurer may be, but is not required to be, a member of the board.]~~

SECTION 4. Sections 1051.353(c) and (d), Occupations Code, are amended to read as follows:

(c) A person whose certificate of registration has been expired for more than 90 days but less than two years [~~one year~~] may renew the certificate by paying to the board a renewal fee equal to two times the normally required renewal fee.

(d) A person whose certificate of registration has been expired for two years [~~one year~~] or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate.

SECTION 5. Sections 1051.357(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) The board by rule shall establish a procedure by which an architect may place the architect's ~~[person's]~~ certificate of registration on emeritus status. The architect ~~[person]~~ must apply for emeritus status, on a form prescribed by the board, before the architect's ~~[person's]~~ certificate of registration expires.

(c) An architect [A person] whose certificate of registration is on emeritus status:

(1) may ~~[not]~~ engage in the practice of architecture as defined by Sections 1051.001(7)(D), (E), (F), (G), and (H);

(2) may prepare ~~[except for the preparation of]~~ plans and specifications described by Sections 1051.606(a)(3) and (4) ~~[Section 1051.056(a)(3) or (4)];~~

(3) ~~[(2)]~~ may use the title "Emeritus Architect" or "Architect Emeritus";

(4) ~~(3)~~ must pay a renewal fee on a date and in a manner prescribed by board rule; and

(5) ~~(4)~~ is exempt from continuing education requirements under this chapter.

(d) The board shall change an architect's ~~remove a person's~~ certificate of registration from emeritus status to active status if the architect ~~person~~:

(1) requests in writing that the board remove the architect's ~~person's~~ certificate of registration from emeritus status;

(2) pays an administrative fee; and

(3) complies with education or other requirements established by board rule.

SECTION 6. Section 1051.455(b), Occupations Code, is amended to read as follows:

(b) A proceeding under this section relating to an architect, a landscape architect, or an interior designer is subject to Chapter 2001, Government Code.

SECTION 7. Section 1051.457(a), Occupations Code, is amended to read as follows:

(a) If the person on whom an administrative penalty is imposed holds a certificate of registration issued by the board ~~is an architect~~, the board's order becomes final as provided by Section 2001.144, Government Code. If the person does not hold a certificate of registration issued by the board, the board's order becomes final on the 20th day after the date the order is issued.

SECTION 8. Section 1052.151, Occupations Code, is amended to read as follows:

Sec. 1052.151. REGISTRATION REQUIRED; EXCEPTIONS. (a) A person may not engage in the practice of landscape architecture unless the person:

(1) holds a certificate of registration under this chapter; or

(2) is authorized under Section 1052.003 to engage in the practice of landscape architecture without holding a certificate of registration.

(b) Except as provided by Subsections (c) and (d), a [A] person may not represent the person to be a landscape architect or use the term "landscape architect," "landscape architectural," or "landscape architecture" or any similar term to describe the person's services unless the person holds a certificate of registration ~~or is exempt from registration~~ under this chapter.

(c) A business entity may engage in the practice of landscape architecture without holding a certificate of registration under this chapter if:

(1) the entity is authorized under Section 1052.003 to engage in the practice of landscape architecture without holding a certificate of registration; or

(2) any landscape architecture performed on behalf of the entity is performed by or under the supervision and control of a person who:

(A) holds a certificate of registration under this chapter; and

(B) is a regular, full-time employee of the entity.

(d) A business entity may use the term "landscape architect," "landscape architectural," or "landscape architecture" or any similar term to describe the entity or the services provided by the entity without holding a certificate of

registration under this chapter if any practice of landscape architecture performed on behalf of the entity is performed by or under the supervision and control of a person who:

(1) holds a certificate of registration under this chapter; and

(2) is a regular, full-time employee of the entity.

SECTION 9. Sections 1052.153(b) and (d), Occupations Code, are amended to read as follows:

(b) The board shall prescribe the scope of the examination and the methods of procedure with special reference to the applicant's ability that will ensure the safety of the public welfare and property rights. The board by rule may adopt the examination of the Council of Landscape Architectural Registration Boards or the examination of a nationally recognized testing organization whose examination is determined by the board to be at least as stringent as the council's examination.

(d) The board at least annually shall administer the examination or enter into a contract with a nationally recognized testing organization to administer the examination. The board, in the manner provided by board rule, shall provide reasonable public notice of the dates on and locations at which each portion of the examination will be administered [at its office in Austin or at another location designated by the board].

SECTION 10. Subchapter D, Chapter 1052, Occupations Code, is amended by adding Section 1052.155 to read as follows:

Sec. 1052.155. EMERITUS STATUS; LANDSCAPE ARCHITECTS. (a) The board by rule shall establish a procedure by which a landscape architect may place the landscape architect's certificate of registration on emeritus status. The landscape architect must apply for emeritus status, on a form prescribed by the board, before the landscape architect's certificate of registration expires.

(b) A landscape architect is eligible for emeritus status if the landscape architect:

(1) has been a landscape architect for 20 years or more; and

(2) is 65 years of age or older.

(c) A landscape architect whose certificate of registration is on emeritus status:

(1) may engage in the practice of landscape architecture to the extent that a person who does not hold a certificate of registration as a landscape architect may under Section 1052.003(a);

(2) may use the title "Emeritus Landscape Architect" or "Landscape Architect Emeritus";

(3) must pay a renewal fee on a date and in a manner prescribed by board rule; and

(4) is exempt from continuing education requirements under this chapter.

(d) The board shall change a landscape architect's certificate of registration from emeritus status to active status if the landscape architect:

(1) requests in writing that the board change the landscape architect's certificate of registration from emeritus status to active status;

(2) pays an administrative fee; and

(3) complies with education or other requirements established by board rule.

(e) The renewal fee charged under Subsection (c) may not exceed an amount reasonable and necessary to recover the costs to administer this section.

SECTION 11. Subchapter D, Chapter 1053, Occupations Code, is amended by adding Section 1053.156 to read as follows:

Sec. 1053.156. EMERITUS STATUS; INTERIOR DESIGNERS. (a) The board by rule shall establish a procedure by which an interior designer may place the interior designer's certificate of registration on emeritus status. The interior designer must apply for emeritus status, on a form prescribed by the board, before the interior designer's certificate of registration expires.

(b) An interior designer is eligible for emeritus status if the interior designer:

(1) has been an interior designer for 20 years or more; and

(2) is 65 years of age or older.

(c) An interior designer whose certificate of registration is on emeritus status:

(1) may use the title "Emeritus Interior Designer" or "Interior Designer Emeritus";

(2) must pay a renewal fee on a date and in a manner prescribed by board rule; and

(3) is exempt from continuing education requirements under this chapter.

(d) The board shall change an interior designer's certificate of registration from emeritus status to active status if the interior designer:

(1) requests in writing that the board change the interior designer's certificate of registration from emeritus status to active status;

(2) pays an administrative fee; and

(3) complies with education or other requirements established by board rule.

(e) The renewal fee charged under Subsection (c) may not exceed an amount reasonable and necessary to recover the costs to administer this section.

SECTION 12. Sections 1051.157 and 1051.213, Occupations Code, are repealed.

SECTION 13. Not later than December 1, 2007, the Texas Board of Architectural Examiners shall adopt the rules necessary to implement the changes in law made by this Act to Chapters 1051, 1052, and 1053, Occupations Code.

SECTION 14. The changes in law made by this Act to Chapters 1051, 1052, and 1053, Occupations Code, apply to a board member appointed to the Texas Board of Architectural Examiners or a certificate of registration renewed under that chapter on or after the effective date of this Act.

SECTION 15. This Act takes effect September 1, 2007.

### **HB 2734 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2734**, A bill to be entitled An Act relating to the creation of the Williamson-Liberty Hill Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Representative Gattis moved to concur in the senate amendments to **HB 2734**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1744): 138 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Dutton; Farrar; Kolkhorst; Moreno; Oliveira; Thompson; Turner; Van Arsdale.

### **Senate Committee Substitute**

**CSHB 2734**, A bill to be entitled An Act relating to the creation of the Williamson-Liberty Hill Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8199 to read as follows:

**CHAPTER 8199. WILLIAMSON-LIBERTY HILL MUNICIPAL UTILITY  
DISTRICT**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 8199.001. DEFINITIONS.** In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.

(3) "District" means the Williamson-Liberty Hill Municipal Utility District.

Sec. 8199.002. NATURE OF DISTRICT. The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8199.003. CONFIRMATION ELECTION REQUIRED. (a) The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

(b) If the creation of the district is not confirmed at a confirmation election before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Williamson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8199.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All land and other property in the district will benefit from the improvements and services to be provided by the district.

Sec. 8199.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose an assessment or tax; or

(4) legality or operation.

[Sections 8199.006-8199.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8199.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Directors serve staggered four-year terms.

Sec. 8199.052. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Brad Greenblum;

(2) Patrick Shelton;

(3) Mark Sprague;

(4) Keith Husbands; and

(5) Robert Gelernter.

(b) Unless the initial board agrees otherwise, the initial directors shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

(c) This section expires September 1, 2014.

[Sections 8199.053-8199.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8199.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8199.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8199.103. REGIONAL WASTE DISPOSAL POWERS AND DUTIES. The district has the powers and duties applicable to a district under Chapter 30, Water Code.

Sec. 8199.104. COMPLIANCE WITH MUNICIPAL CONSENT RESOLUTION. The district shall comply with all applicable requirements of any resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8199.105. WASTEWATER TREATMENT FACILITY DESIGN APPROVAL. The district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility.

Sec. 8199.106. WASTEWATER SERVICE PROVIDERS. Only the Brazos River Authority or a provider approved by the Brazos River Authority may provide wastewater service in the district.

Sec. 8199.107. COMPLIANCE WITH FEBRUARY 2005 AGREEMENT. The district shall comply with the terms of the "Agreement Regarding Sewer Services Areas and Customers" among the Lower Colorado River Authority, the Brazos River Authority, the City of Georgetown, the City of Liberty Hill, and the Chisholm Trail Special Utility District dated February 1, 2005.

Sec. 8199.108. STREET REPAIR AND MAINTENANCE. (a) After July 1, 2017, the district, at the district's expense, shall repair and maintain any streets in the district.

(b) A district's repair and maintenance of streets under this section must meet all applicable construction standards and regulations of the City of Liberty Hill and Williamson County.

[Sections 8199.109-8199.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8199.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from a source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) An ad valorem tax rate imposed by the district may not exceed the rate approved at the election.

Sec. 8199.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8199.151, the district may impose an operation and maintenance tax on taxable property in the district as provided by Chapter 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8199.153-8199.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8199.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8199.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, at a rate not to exceed the rate approved at an election held under Section 8199.151, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Williamson-Liberty Hill Municipal Utility District initially includes all the territory contained in the following area:

DESCRIPTION OF 228.227 ACRES OF LAND OUT OF THE NOAH SMITHWICK SURVEY, ABSTRACT NO. 590 AND W.H. MONROE SURVEY, ABSTRACT NO. 453, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 316 ACRE TRACT DESCRIBED IN A DEED TO EDWIN C. ROSENBUSCH, ET UX, OF RECORD IN VOLUME 427, PAGE 535 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; AND ALSO BEING A PORTION OF THAT CERTAIN 10.98 ACRE TRACT DESCRIBED IN A DEED TO VINCENT J. STAGLIANO, OF RECORD IN DOCUMENT NO. 2005055873 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 228.227 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, at a 1/2-inch iron rod with cap found in the southwesterly right-of-way line of State Highway No. 29 (100-foot right-of-way), for the easterly corner of Lot 1 of the Amended R. McMillian Subdivision, of record in Cabinet K, Slides 67-68, of the Plat Records of Williamson County, and the northerly corner of said 10.98 acre tract;

THENCE, along the southwesterly line of said State Highway No. 29 with the northeasterly line of said 10.98 acre tract, the following two (2) courses and distances:

1) along a curve to the right having a radius of 2814.79 feet, a central angle of  $6^{\circ}49'21''$ , an arc distance of 335.17 feet and a chord which bears  $S62^{\circ}12'06''E$ , a distance of 334.97 feet, to a 1/2 inch iron rod with cap found for the end of said curve at or near State Highway No. 29 centerline Station 527+04.3, 50' LT.;

2)  $S58^{\circ}44'38''E$ , a distance of 30.41 feet to a 1/2-inch iron rod with cap set for the POINT OF BEGINNING and an exterior ell corner hereof;

THENCE,  $S58^{\circ}44'38''E$ , continuing along the southwesterly line of said State Highway No. 29, being the northwesterly line of said 10.98 acre tract, for a portion of the northeasterly line hereof, a distance of 180.00 feet to a 1/2-inch iron rod with cap set for an exterior ell corner hereof;

THENCE, leaving the southwesterly line of said State Highway No. 29, over and across said 10.98 acre and said 316 acre tracts along a portion of the northeasterly line hereof, the following five (5) courses and distances:

1)  $S31^{\circ}17'49''W$ , a distance of 100.35 feet, to a 1/2-inch iron rod with cap set for an exterior ell corner hereof;

2)  $N58^{\circ}42'11''W$ , a distance of 50.00 feet to 1/2-inch iron rod with cap set for an interior ell corner hereof;

3)  $S31^{\circ}17'49''W$ , at a distance of 413.09 feet crossing the easterly line of said 316 acre tract, leaving said 10.98 acre tract, a total distance of 490.00 feet to a 1/2-inch iron rod with cap set for an interior ell corner hereof;

4)  $S58^{\circ}42'11''E$ , at a distance of 68.19 feet crossing the westerly line of said 10.98 acre tract, leaving said 316 acre tract, a total distance of 489.99 feet to a 1/2-inch iron rod with cap set in the northwesterly line of that certain 10.00 acre tract described in a Contract of Sale and Purchase between the Veterans Land Board of Texas and William D. Jenkins, of record in Volume 755, Page 855, of said Deed Records and the southeasterly line of said 10.98 acre tract for an exterior ell corner hereof;

5)  $S31^{\circ}16'19''W$ , along the northeasterly line of said 10.00 acre tract and the southeasterly line of said 10.98 acre tract, a distance of 215.92 feet to a 1/2-inch iron rod found at the base of a cedar fence post in the remains of a wire fence adjacent to the presently fenced and occupied northeasterly line of said 316 acre tract, for the monumented southerly corner of said 10.98 acre tract and said 10.00 acre tract, for an exterior ell corner hereof;

THENCE, along the southeasterly line of said 10.00 acre tract, for a portion of the northeasterly line hereof, the following three (3) courses and distances:

1)  $S55^{\circ}45'57''E$ , a distance of 87.60 feet to a 1/2-inch iron rod found for an angle point of said 10.00 acre tract and hereof;

2) S50°38'25"E, a distance of 154.10 feet to a 60d nail found in fence post for an angle point of said 10.00 acre tract and hereof;

3) S17°28'18"E, at 337.71 feet passing a 1/2-inch iron rod found for the southerly corner of said 10.00 acre tract and continuing along the southwesterly line of that certain 10.97 acre tract described in a deed to Vincent J. Stagliano, of record in Document No. 2006004521 of said Official Public Records, a total distance of 373.34 feet to a 1/2-inch iron rod found for the northeasterly corner of that certain 136.97 acre tract described in a deed to Z. M. Bonnet, of record in Volume 611, Page 672 of said Deed Records, the occupied southeasterly corner of said 316 acre tract and the southeasterly corner hereof;

THENCE, along the northerly line of said 136.97 acre tract as found, fenced and monumented on the ground, being the occupied southerly line of said 316 acre tract, for a portion of the southerly line hereof, the following three (3) courses and distances:

1) S68°22'05"W, a distance of 557.93 feet to a 1/2 inch iron rod found for an angle point of said 136.97 acre tract and hereof;

2) S70°27'30"W, a distance of 400.65 feet to a 1/2 inch iron rod found for an angle point of said 136.97 acre tract and hereof;

3) S69°53'20"W, a distance of 1672.24 feet to a 1/2-inch iron rod found for the northwesterly corner of said 136.97 acre tract at an offset in the presently occupied southerly line of said 316 acre tract for an angle point hereof;

THENCE, S20°01'45"E, along the westerly line of said 136.97 acre tract, a distance of 13.44 feet to a 1/2 inch iron rod found for the monumented northeasterly corner of said of that certain tract described as two hundred (200) acres in a deed to F.F. Davis, et ux, of record in Volume 329, Page 336 of said Deed Records, being an angle point in the southerly line of said 316 acre tract, and the southerly line hereof;

THENCE, S69°21'37"W, along the monumented north line of said two hundred acres, for a portion of the southerly line hereof, at a distance of 1005.26 feet passing a 1/2 inch iron rod with cap found for the northeasterly corner of that certain tract described as 3.16 acre in a deed to Pedernales Electric Cooperative, Inc., of record in Document No. 200640305, said Official Public Records, leaving the remainder of said two hundred acre tract and continuing along the fenced and monumented northerly line of said 3.16 acre tract, a total distance of 1468.55 feet to a 1/2-inch iron rod with cap set for the southwesterly corner hereof;

THENCE, leaving the northerly line of said 3.16 acre tract, over and across said 316 acre tract, the following six (6) courses and distances:

1) N11°17'24"W, a distance of 929.10 feet to a 1/2-inch iron rod found for an angle point hereof;

2) S67°33'15"W, a distance of 1456.16 feet to a 1/2-inch iron rod with cap found in the fenced and occupied easterly line of County Road 266, an unspecified width right-of-way, for an angle point hereof;

3) N08°44'30"W, along the easterly line of said county road, a distance of 687.16 feet to 1/2-inch iron rod with cap set for an angle point hereof;

4)  $N12^{\circ}38'37''W$ , along the easterly line of said county road, a distance of 106.61 feet to a 1/2-inch iron rod with cap found for an angle point hereof;

5)  $N71^{\circ}42'29''E$ , leaving said county road, a distance of 808.72 feet to a 1/2-inch iron rod with cap found for an angle point hereof;

6)  $N20^{\circ}46'09''W$ , at a distance of 858.17 feet passing a 1/2-inch iron rod found, a total distance of 860.11 feet to a 1/2-inch iron rod with cap set in the southerly line of Twenty-Nine Ranch, a subdivision of record in Cabinet K, Slides 115-116 of said Plat Records for the northwesterly corner hereof;

THENCE, along the southerly line of said Twenty-Nine Ranch subdivision, and the southerly line of Poldrack Estates, a subdivision of record in Cabinet R, Slide 106 of said Plat Records, being the occupied northerly line of said 316 acre tract as found fenced on the ground, for the northwesterly line hereof, the following eight (8) courses and distances:

1)  $N69^{\circ}14'51''E$ , along the southerly line of said Twenty-Nine Ranch, a distance of 715.53 feet to a 1/2-inch iron rod found for the common southeasterly corner of Lot 15, said Twenty-Nine Ranch and Lot 5A, said Poldrack Estates, for an angle point hereof;

2)  $N69^{\circ}39'50''E$ , along the southerly line of said Poldrack Estates, a distance of 846.33 feet to a 1/2-inch iron rod with cap set at the common southeasterly corner of Lot 5B, said Poldrack Estates and Lots 2 and 3, said Twenty-Nine Ranch for an angle point hereof, from which a 1/2-inch iron rod found bears  $S32^{\circ}14'32''W$ , a distance of 1.31 feet;

3)  $N69^{\circ}21'16''E$ , leaving said Poldrack Estates and rejoining the southerly line of said Twenty-Nine Ranch, a distance of 294.84 feet, to a 1/2-inch iron rod found for an angle point of said Lot 2 and hereof;

4)  $N71^{\circ}27'12''E$ , a distance of 234.01 feet to a 1/2-inch iron rod found for an angle point of said Lot 2 and hereof;

5)  $N72^{\circ}01'52''E$ , a distance of 183.26 feet to a 1/2-inch iron rod found for the common southeasterly corner of Lots 1 and 2, said Twenty-Nine Ranch and an angle point hereof;

6)  $N70^{\circ}51'21''E$ , a distance of 340.43 feet to a 1/2-inch iron rod found for an angle point of said Lot 1 and hereof;

7)  $N69^{\circ}46'40''E$ , a distance of 330.74 feet to a 1/2-inch iron rod found for an angle point of said Lot 1 and hereof;

8)  $N82^{\circ}26'30''E$ , a distance of 9.29 feet to a 1/2-inch iron rod with cap set for the northwesterly corner of that certain 3.034 acre tract described in a deed to Lonnie Draper, et al, of record in Volume 1148, Page 795, of the Official Records of Williamson County, Texas, for an angle point of said Lot 1, and for the occupied northeasterly corner of said 316 acre tract and hereof;

THENCE,  $S21^{\circ}41'36''E$ , along the westerly line of said 3.034 acre tract, being a portion of the northeasterly line of said 316 acre tract and hereof, a distance of 621.44 feet to a 1/2-inch iron rod found for the southwestly corner of said, 3.034 acre tract, for an angle point of said 316 acre tract and hereof;

THENCE, in part along the southeasterly line of said 3.034 acre tract, being a portion of the northeasterly line of said 316 acre tract, the southeasterly line of that certain 5.526 acre tract described in a deed to James L. Click, et ux, in a deed

of record in Document No. 9820992 of said Official Records, the southeasterly line of that certain 1.42 acre tract described in a deed to Allison M. Garcia, et al, of record in Document No. 2001016968 of said Official Public Records, and the southeasterly line of said Amended R. McMillian Subdivision; the following two (2) courses and distances:

1)  $N69^{\circ}21'45''E$ , at a distance of 34.50 passing a 1/2-inch iron rod found for the common corner of said 3.034 acre tract and said 5.526 acre tract, at a distance of 496.40 feet passing a 1/2-inch iron rod found for the common corner of said 5.526 acre tract and said 1.42 acre tract, a total distance of 714.73 feet to a 1/2-inch iron rod found for the common corner of said 1.42 acre tract and said Amended McMillian Subdivision, for an angle point hereof;

2)  $N68^{\circ}26'03''E$ , a distance of 1.30 feet to a 1/2-inch iron rod with cap set in the southeasterly line of said Amended McMillian Subdivision for an angle point hereof;

THENCE, leaving said Amended McMillian Subdivision, over and across said 316 acre tract and said 10.98 acre tract, along a portion of the northeasterly line hereof in the following four (4) courses and distances;

1)  $S58^{\circ}42'11''E$ , a distance of 811.36 feet to a 1/2-inch iron rod with cap set for an interior ell corner hereof;

2)  $N31^{\circ}17'49''E$ , at a distance of 130.95 feet crossing the westerly line of said 10.98 acre tract, leaving said 316 acre tract, a total distance of 453.80 feet to a 1/2-inch iron rod with cap set for an interior ell corner hereof;

3)  $N58^{\circ}42'11''W$ , a distance of 50.00 feet to a 1/2-inch iron rod with cap set for an exterior ell corner hereof;

4)  $N31^{\circ}17'49''E$ , a distance of 100.22 feet to the POINT OF BEGINNING, containing an area of 228.227(9,941,560 square feet) of land, more or less, within these metes and bounds.

**BASIS OF BEARINGS: IS THE TEXAS COORDINATE SYSTEM NAD83(93) CENTRAL ZONE CALIBRATED TO LCRA GPS CONTROL MONUMENTS AZF9, AZ54, AND A843**

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 1141 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

Representative D. Howard called up with senate amendments for consideration at this time,

**HB 1141**, A bill to be entitled An Act relating to the confidentiality of certain home address information in local tax appraisal records regarding an employee of a prosecutor's office or of certain offices with jurisdiction over child protective services matters.

Representative D. Howard moved to concur in the senate amendments to **HB 1141**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1745): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Bailey; Hughes; Kolkhorst; Moreno; Oliveira; Puente.

### Senate Committee Substitute

**CSHB 1141**, A bill to be entitled An Act relating to the confidentiality of certain home address information in local tax appraisal records regarding current or former peace officers and regarding a current or former employee of a prosecutor's office or of certain offices with jurisdiction over child protective services matters.

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

SECTION 1. Section 25.025(a), Tax Code, is amended to read as follows:

(a) This section applies only to:

(1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure;

(2) a county jailer as defined by Section 1701.001, Occupations Code;

(3) an employee of the Texas Department of Criminal Justice;

(4) a commissioned security officer as defined by Section 1702.002, Occupations Code; ~~and~~

(5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor; and

(6) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 1551 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1551**, A bill to be entitled An Act relating to remedies for common nuisances.

Representative Hochberg moved to concur in the senate amendments to **HB 1551**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1746): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocok; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock;

Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Kolkhorst; Moreno; Oliveira; Smith, W.

### Senate Committee Substitute

**CSHB 1551**, A bill to be entitled An Act relating to remedies for common nuisances.

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

SECTION 1. Section 125.002(e), Civil Practice and Remedies Code, is amended to read as follows:

(e) If judgment is in favor of the petitioner, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance and may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. If the petitioner brings an action in rem, the judgment is a judgment in rem against the property as well as a judgment against the defendant. The judgment must order that the place where the nuisance exists be closed for one year after the date of judgment [~~unless the defendant or the real property owner, lessee, or tenant of the property posts bond~~].

SECTION 2. Section 125.045, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If, after notice and hearing on a request by a petitioner for a temporary injunction, a court determines that the petitioner is likely to succeed on the merits in a suit brought under Section 125.002, the court:

(1) may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance; and

(2) shall require that the defendant execute a bond.

(a-1) The bond must:

(1) be payable to the state at the county seat of the county in which the place is located;

(2) be in the amount set by the court, but not less than \$5,000 or more than \$10,000;

(3) have sufficient sureties approved by the court; and

(4) be conditioned that the defendant will not knowingly maintain a common nuisance to exist at the place.

(b) If, after an entry of a temporary or permanent injunction, a court determines that a condition of the injunctive order is violated, the court ~~[any party to a court case fails to cease and desist creating and maintaining a common nuisance within the time allowed by the court, a political subdivision]~~ may:

(1) order a political subdivision to discontinue the furnishing of utility services ~~[by the political subdivision]~~ to the place at which the nuisance exists;

(2) prohibit the furnishing of utility service to the place by any public utility holding a franchise to use the streets and alleys of the political subdivision;

(3) revoke the certificate of occupancy of the place;

(4) prohibit the use of city streets, alleys, and other public ways for access to the place during the existence of the nuisance or in furtherance of the nuisance; ~~[and]~~

(5) limit the hours of operation of the place, to the extent that the hours of operation are not otherwise specified by law;

(6) order a landlord to terminate a tenant's lease if:

(A) the landlord and the tenant are parties to the suit; and

(B) the tenant has violated a condition of the injunctive order; or

(7) order [use] any other legal remedy available under the laws of the state.

SECTION 3. Section 125.002(f), Civil Practice and Remedies Code, is repealed.

SECTION 4. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 1563 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1563**, A bill to be entitled An Act relating to the issuance of high school diplomas to certain crime victims.

Representative Bolton moved to concur in the senate amendments to **HB 1563**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1747): 125 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Bailey; Burnam; Cook, B.; Davis, Y.; Dunnam; Elkins; Escobar; Goolsby; Hardcastle; Hughes; King, P.; Kolkhorst; Macias; Moreno; Morrison; Murphy; Oliveira; Raymond; Swinford; Thompson; Villarreal; Woolley.

#### STATEMENTS OF VOTE

When Record No. 1747 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

When Record No. 1747 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

#### Senate Committee Substitute

**CSHB 1563**, A bill to be entitled An Act relating to the issuance of posthumous high school diplomas to certain students.

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

SECTION 1. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0254 to read as follows:

Sec. 28.0254. POSTHUMOUS HIGH SCHOOL DIPLOMA FOR CERTAIN STUDENTS. (a) Notwithstanding any other provision of this code, but subject to Subsection (b), on request of the student's parent, a school district shall issue a high school diploma posthumously to each student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. For purposes of this subsection, "school year" includes any summer session following the spring semester.

(b) A school district is not required to issue a high school diploma to a student described by Subsection (a) if the student at any time before the student's death was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

SECTION 2. Section 28.0254, Education Code, as added by this Act, applies beginning with students enrolled at grade level 12 during the 2005-2006 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 624 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

**HB 624**, A bill to be entitled An Act relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.

Representative P. King moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 624**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 624**: P. King, chair; Dutton, Latham, Riddle, and Taylor.

**HB 1633 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1633**, A bill to be entitled An Act relating to the determination of eligibility for Medicaid for certain persons in the armed forces and their family members.

Representative Geren moved to concur in the senate amendments to **HB 1633**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1748): 137 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes;

Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Delisi; Dunnam; Eiland; Kolkhorst; Madden; McCall; Moreno; Oliveira; Taylor.

#### STATEMENTS OF VOTE

I was shown voting no on Record No. 1748. I intended to vote yes.

Phillips

When Record No. 1748 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

#### Senate Committee Substitute

**CSHB 1633**, A bill to be entitled An Act relating to the determination of eligibility for Medicaid for certain persons in the armed forces and their family members.

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

SECTION 1. Section 32.026, Human Resources Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) In adopting rules under this section, the executive commissioner of the Health and Human Services Commission shall, to the extent allowed by federal law, develop and implement an expedited process for determining eligibility for and enrollment in the medical assistance program for an active duty member of the United States armed forces, reserves, or National Guard or of the state military forces, or the spouse or dependent of that person.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

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

**HB 1748 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1748**, A bill to be entitled An Act relating to the administration of Texas governor's schools.

Representative Morrison moved to concur in the senate amendments to **HB 1748**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1749):  
132 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Bailey; Burnam; Chavez; Coleman; Eiland; Jones; King, P.; Kolkhorst; Macias; McCall; Moreno; Oliveira; Raymond; Thompson.

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

Amend **HB 1748** (House engrossment) as follows:

(1) On page 1, line 15, strike "or".

(2) On page 1, between lines 15 and 16, insert "(3) fine arts; or".

(3) On page 1, line 16, strike "(3)" and substitute "(4)".

(4) On page 2, between lines 16 and 17, insert the following:

"(d) The criteria described by Subsection (c)(2)(B) must include grade point average, academic standing, and extracurricular activities."

(5) On page 2, line 17, strike "(d)" and substitute "(e)".

(6) On page 2, line 22, strike "(e)" and substitute "(f)".

**HB 2426 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2426**, A bill to be entitled An Act relating to the regulation of the practice of nursing and the renaming of the Board of Nurse Examiners as the Texas Board of Nursing.

Representative Truitt moved to concur in the senate amendments to **HB 2426**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1750): 122 Yeas, 1 Nays, 1 Present, not voting.

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

Nays — Jones.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Chavez; Davis, Y.; Deshotel; Dutton; Eiland; Farrar; Giddings; Goolsby; Hancock; Hill; Hochberg; Hughes; King, P.; Kolkhorst; Kuempel; Macias; McCall; Moreno; Mowery; Oliveira; Puente; Thompson; Van Arsdale.

**STATEMENTS OF VOTE**

When Record No. 1750 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

I was shown voting no on Record No. 1750. I intended to vote yes.

Jones

### Senate Committee Substitute

**CSHB 2426**, A bill to be entitled An Act relating to the regulation of the practice of nursing and the renaming of the Board of Nurse Examiners as the Texas Board of Nursing.

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

SECTION 1. Section 301.002(1), Occupations Code, is amended to read as follows:

(1) "Board" means the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 2. Section 301.003, Occupations Code, is amended to read as follows:

Sec. 301.003. APPLICATION OF SUNSET ACT. The Texas Board of Nursing [~~Nurse Examiners~~] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017 [~~2007~~].

SECTION 3. Section 301.004(a), Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) gratuitous nursing care of the sick that is provided by a friend;

(2) nursing care provided during a disaster under the state emergency management plan adopted under Section 418.042, Government Code, if the person providing the care does not hold the person out as a nurse unless the person is licensed in another state;

(3) nursing care in which treatment is solely by prayer or spiritual means;

(4) an act performed by a person under the delegated authority of a person licensed by the Texas Medical [~~State~~] Board [~~of Medical Examiners~~];

(5) an act performed by a person licensed by another state agency if the act is authorized by the statute under which the person is licensed;

(6) the practice of nursing that is incidental to a program of study by a student enrolled in a [~~board-approved~~] nursing education program approved under Section 301.157(d) leading to an initial license as a nurse; or

(7) the practice of nursing by a person licensed in another state who is in this state on a nonroutine basis for a period not to exceed 72 hours to:

(A) provide care to a patient being transported into, out of, or through this state;

(B) provide nursing consulting services; or

(C) attend or present a continuing nursing education program.

SECTION 4. Subchapter A, Chapter 301, Occupations Code, is amended by adding Section 301.005 to read as follows:

Sec. 301.005. REFERENCE IN OTHER LAW. A reference in any other law to the former Board of Nurse Examiners means the Texas Board of Nursing.

SECTION 5. The heading to Subchapter B, Chapter 301, Occupations Code, is amended to read as follows:

SUBCHAPTER B. TEXAS BOARD OF NURSING [~~NURSE EXAMINERS~~]

SECTION 6. Section 301.051(a), Occupations Code, is amended to read as follows:

(a) The Texas Board of Nursing [~~Nurse Examiners~~] consists of 13 members appointed by the governor with the advice and consent of the senate as follows:

- (1) six nurse members, including:
  - (A) one advanced practice nurse;
  - (B) two registered nurses who are not advanced practice nurses or members of a nurse faculty; and
  - (C) three vocational nurses who are not members of a nurse faculty;
- (2) three members who are nurse faculty members of schools of nursing:
  - (A) one of whom is a nurse faculty member of a school of nursing offering a baccalaureate degree program in preparing registered nurses;
  - (B) one of whom is a nurse faculty member of a school of nursing offering an associate degree program in preparing registered nurses; and
  - (C) one of whom is a nurse faculty member of a school of nursing at an institution of higher education preparing vocational nurses; and
- (3) four members who represent the public.

SECTION 7. Section 301.052(b), Occupations Code, is amended to read as follows:

(b) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;
- (2) is employed by or participates in the management of a business entity or other organization that:
  - (A) provides health care services; ~~or~~
  - (B) sells, manufactures, or distributes health care supplies or equipment; or
  - (C) is regulated by or receives money from the board;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that:
  - (A) provides health care services; ~~or~~
  - (B) sells, manufactures, or distributes health care supplies or equipment; or
  - (C) is regulated by or receives money from the board; or
- (4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

SECTION 8. Section 301.053, Occupations Code, is amended to read as follows:

Sec. 301.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a ~~nonprofit~~ cooperative~~s~~ and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for the purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an [An] officer, employee, or paid consultant of a Texas trade association in the field of health care; or

~~(2) the person's [may not be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

~~[(e) A person who is the] spouse is [of] an officer, manager, or paid consultant of a Texas trade association in the field of health care [may not be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

(c) ~~[(d)]~~ A person may not be [serve as] a [board] member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the board's operation.

SECTION 9. Sections 301.055(a) and (c), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 301.051(a);

(2) does not maintain during service on the board the qualifications required by Section 301.051(a);

(3) is ineligible for membership under ~~[violates a prohibition established by]~~ Section 301.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 10. Section 301.056(b), Occupations Code, is amended to read as follows:

(b) A board member is ~~[not]~~ entitled to reimbursement for travel expenses incurred while conducting board business, including expenses for transportation, meals, and lodging, ~~[other than transportation expenses. A member is entitled to reimbursement for transportation expenses]~~ as provided by the General Appropriations Act.

SECTION 11. Sections 301.059(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted in attendance at a meeting of the board until the person completes ~~[Before a board member may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of]~~ a training program that complies with ~~[established by the board under]~~ this section.

(b) The training program must ~~[shall]~~ provide the person with information ~~[to a participant]~~ regarding:

(1) the legislation that created the board and the board's programs, functions, rules, and budget ~~[this chapter];~~

(2) the results of the most recent formal audit of ~~[programs operated by]~~ the board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[role and functions of the board]; and~~

(4) ~~[the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

~~](5) the current budget for the board;~~

~~](6) the results of the most recent formal audit of the board;~~

~~](7) the requirements of Chapters 551, 552, 2001, and 2002, Government Code;~~

~~](8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

~~](9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.~~

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. ~~[In developing the training program, the board shall consult with the governor's office, the attorney general's office, and the Texas Ethics Commission.]~~

SECTION 12. Subchapter D, Chapter 301, Occupations Code, is amended by adding Section 301.1545 to read as follows:

Sec. 301.1545. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION OR DEFERRED ADJUDICATION. (a) The board shall adopt rules and guidelines necessary to comply with Chapter 53, except to the extent the requirements of this subtitle are stricter than the requirements of that chapter.

(b) In its rules under this section, the board shall list the offenses for which a conviction would constitute grounds for the board to take action under Section 53.021 or for which placement on deferred adjudication community supervision would constitute grounds for the board to take action under this chapter.

SECTION 13. Section 301.157, Occupations Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (a-1), (b-1), (d-1) through (d-7), and (h) to read as follows:

(a) The board shall prescribe three programs of study to prepare a person to receive an initial license as a registered nurse under this chapter ~~nurses~~ as follows:

(1) a baccalaureate degree program that is conducted by an educational unit in nursing that is a part of a senior college or university and that leads to a baccalaureate degree in nursing;

(2) an associate degree program that is conducted by an educational unit in nursing within the structure of a college or a university and that leads to an associate degree in nursing; and

(3) a diploma program that is conducted by a single-purpose school, usually under the control of a hospital, and that leads to a diploma in nursing.

(a-1) A diploma program of study in this state that leads to an initial license as a registered nurse under this chapter and that is completed on or after December 31, 2014, must entitle a student to receive a degree on the student's successful completion of a degree program of a public or private institution of higher education accredited by an agency recognized by the Texas Higher Education Coordinating Board.

(b) The board shall:

(1) prescribe two programs of study to prepare a person to receive an initial vocational nurse license under this chapter ~~nurses~~ as follows:

(A) a program conducted by an educational unit in nursing within the structure of a school, including a college, university, or proprietary school; and

(B) a program conducted by a hospital;

(2) prescribe and publish the minimum requirements and standards for a course of study in each program that prepares registered nurses or vocational nurses;

(3) prescribe other rules as necessary to conduct approved schools of nursing and educational programs for the preparation of registered nurses or vocational nurses;

(4) approve schools of nursing and educational programs that meet the board's requirements;

(5) select one or more national nursing accrediting agencies, recognized by the United States Department of Education and determined by the board to have acceptable standards, to accredit schools of nursing and educational programs; and

(6) [~~5~~] deny or withdraw approval from a school of nursing or educational program that:

(A) fails to meet the prescribed course of study or other standard under which it sought approval by the board;

(B) fails to meet or maintain accreditation with the national nursing accrediting agency selected by the board under Subdivision (5) under which it was approved or sought approval by the board; or

(C) fails to maintain the approval of the state board of nursing of another state and the board under which it was approved.

(b-1) The board may not require accreditation of the governing institution of a school of nursing. The board shall accept the requirements established by the Texas Higher Education Coordinating Board for accrediting the governing institution of a school of nursing. The governing institution of a professional nursing school, not including a diploma program, must be accredited by an agency recognized by the Texas Higher Education Coordinating Board or hold a certificate of authority from the Texas Higher Education Coordinating Board under provisions leading to accreditation of the institution in due course.

(d) A person may not be certified as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of a ~~[an approved]~~ school of nursing or educational program that:

(1) is approved by the board;

(2) is accredited by a national nursing accreditation agency determined by the board to have acceptable standards; or

(3) is approved by a state board of nursing of another state and the board, subject to Subsection (d-4).

(d-1) A school of nursing or educational program is considered approved by the board and, except as provided by Subsection (d-7), is exempt from board rules that require ongoing approval if the school or program:

(1) is accredited and maintains accreditation through a national nursing accrediting agency selected by the board under Subsection (b)(5); and

(2) maintains an acceptable pass rate as determined by the board on the applicable licensing examination under this chapter.

(d-2) A school of nursing or educational program that fails to meet or maintain an acceptable pass rate on applicable licensing examinations under this chapter is subject to review by the board. The board may assist the school or program in its effort to achieve compliance with the board's standards.

(d-3) A school or program from which approval has been withdrawn under this section may reapply for approval.

(d-4) The board may recognize and accept as approved under this section a school of nursing or educational program operated in another state and approved by a state board of nursing of another state. The board shall develop policies to ensure that the other state board's standards are substantially equivalent to the board's standards.

(d-5) The board shall streamline the process for initially approving a school of nursing or educational program under this section by identifying and eliminating tasks performed by the board that duplicate or overlap tasks performed by the Texas Higher Education Coordinating Board or the Texas Workforce Commission.

(d-6) The board, in cooperation with the Texas Higher Education Coordinating Board and the Texas Workforce Commission, shall establish guidelines for the initial approval of schools of nursing or educational programs. The guidelines must:

(1) identify the approval processes to be conducted by the Texas Higher Education Coordinating Board or the Texas Workforce Commission;

(2) require the approval process identified under Subdivision (1) to precede the approval process conducted by the board; and

(3) be made available on the board's Internet website and in a written form.

(d-7) A school of nursing or educational program approved under Subsection (d-1) shall:

(1) provide the board with copies of any reports submitted to or received from the national nursing accrediting agency selected by the board;

(2) notify the board of any change in accreditation status; and

(3) provide other information required by the board as necessary to evaluate and establish nursing education and workforce policy in this state.

(h) The board, in collaboration with the nursing educators, the Texas Higher Education Coordinating Board, and the Texas Health Care Policy Council, shall implement, monitor, and evaluate a plan for the creation of innovative nursing education models that promote increased enrollment in this state's nursing programs.

SECTION 14. Subchapter D, Chapter 301, Occupations Code, is amended by adding Section 301.1595 to read as follows:

Sec. 301.1595. ADVISORY COMMITTEES. (a) The board may appoint advisory committees to perform the advisory functions assigned by the board.

(b) An advisory committee shall provide independent expertise on board functions and policies, but may not be involved in setting board policy.

(c) The board shall adopt rules regarding the purpose, structure, and use of advisory committees, including rules on:

(1) the purpose, role, responsibility, and goal of an advisory committee;

(2) the size and quorum requirements for an advisory committee;

(3) the composition and representation of an advisory committee;

(4) the qualifications of advisory committee members, such as experience or area of residence;

(5) the appointment procedures for advisory committees;

(6) the terms of service for advisory committee members;

(7) the training requirements for advisory committee members, if necessary;

(8) the method the board will use to receive public input on issues addressed by an advisory committee; and

(9) the development of board policies and procedures to ensure advisory committees meet the requirements for open meetings under Chapter 551, Government Code, including notification requirements.

(d) A board member may not serve as a member of an advisory committee, but may serve as a liaison between an advisory committee and the board. A board member liaison that attends advisory committee meetings may attend only as an observer and not as a participant. A board member liaison is not required to attend advisory committee meetings. The role of a board member liaison is limited to clarifying the board's charge and intent to the advisory committee.

(e) To the extent of any conflict with Chapter 2110, Government Code, this section and board rules adopted under this section control.

SECTION 15. Subchapter D, Chapter 301, Occupations Code, is amended by adding Sections 301.166 and 301.167 to read as follows:

Sec. 301.166. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 301.167. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

SECTION 16. Section 301.203, Occupations Code, is amended to read as follows:

Sec. 301.203. RECORDS AND ANALYSIS OF COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints [~~keep an information file about each complaint~~] filed with the board. The board shall maintain information about [~~information file must be kept current and must contain a record for each complaint of~~]:

(1) parties to the complaint [~~each person contacted in relation to the complaint~~];

(2) the subject matter of the complaint [~~a summary of findings made at each step of the complaint process~~];

(3) a summary of the results of the review or investigation of the complaint [~~an explanation of the legal basis and reason for a complaint that is dismissed~~]; and

(4) the complaint's disposition [~~the schedule required under Section 301.204 and a notation of any change in the schedule; and~~  
~~(5) other relevant information~~].

(b) The board shall make information available describing its procedures for complaint investigation and resolution.

(c) The board shall periodically [~~If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall~~] notify the parties to the complaint of the status of the complaint until final disposition unless notice would jeopardize an undercover investigation.

(d) The board shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The board shall use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(e) The board shall analyze complaints filed with the board to identify any trends or issues related to certain violations, including:

(1) the reason for each complaint;

(2) how each complaint was resolved; and

(3) the subject matter of each complaint that was not within the jurisdiction of the board and how the board responded to the complaint.

SECTION 17. The heading to Section 301.204, Occupations Code, is amended to read as follows:

Sec. 301.204. GENERAL RULES, POLICIES, AND PROCEDURES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.

SECTION 18. Section 301.204, Occupations Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The board shall adopt rules, policies, and procedures concerning the investigation of a complaint filed with the board. The rules, policies, or procedures adopted under this subsection must:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; ~~and~~

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator; and

(6) by rule allow appropriate employees of the board to dismiss a complaint if an investigation demonstrates that:

(A) a violation did not occur; or

(B) the subject of the complaint is outside the board's jurisdiction.

(f) At each public meeting of the board, the executive director shall report to the board each complaint dismissed under Subsection (a)(6) since the board's last public meeting.

SECTION 19. Section 301.252, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) Each applicant for a registered nurse license or a vocational nurse license must submit to the board a sworn application that demonstrates the applicant's qualifications under this chapter, accompanied by evidence that the applicant:

(1) has good professional character; ~~and~~

(2) has successfully completed a ~~[an approved]~~ program of professional or vocational nursing education approved under Section 301.157(d); and

(3) has passed the jurisprudence examination approved by the board as provided by Subsection (a-1).

(a-1) The jurisprudence examination shall be conducted on the licensing requirements under this chapter and board rules and other laws, rules, or regulations applicable to the nursing profession in this state. The board shall adopt rules for the jurisprudence examination under Subsection (a)(3) regarding:

(1) the development of the examination;

(2) applicable fees;

(3) administration of the examination;

(4) reexamination procedures;

(5) grading procedures; and

(6) notice of results.

(b) The board may waive the requirement of Subsection (a)(2) for a vocational nurse applicant if the applicant provides satisfactory sworn evidence that the applicant has completed an acceptable level of education in:

(1) a professional nursing school approved under Section 301.157(d) [by the board]; or

(2) a school of professional nurse education located in another state or a foreign country.

SECTION 20. Section 301.253, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c-1), (f), and (g) to read as follows:

(b) Each examination administered under this section must be prepared by a national testing service or the board. The board shall ensure that the ~~[give the]~~ examination is administered in various cities throughout the state.

(c-1) The board shall:

(1) adopt policies and guidelines detailing the procedures for the testing process, including test admission, test administration, and national examination requirements; and

(2) post on the board's Internet website the policies that reference the testing procedures by the national organization selected by the board to administer an examination.

(f) The board shall develop a written refund policy regarding examination fees that:

(1) defines the reasonable notification period and the emergencies that would qualify for a refund; and

(2) does not conflict with any examination fee or refund policy of the testing service involved in administering the examination.

(g) The board may recommend to a national testing service selected by the board to offer examinations under this section the board's written policy for refunding an examination fee for an applicant who:

(1) provides advance notice of the applicant's inability to take the examination; or

(2) is unable to take the examination because of an emergency.

SECTION 21. Section 301.301, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) A person may renew an unexpired license issued under this chapter on payment to the board of the required renewal fee before the expiration date of the license, payment to the board of any costs assessed under Section 301.461, and compliance with any other renewal requirements adopted by the board. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(c) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required renewal fee and a late fee in the amount considered appropriate by the board to encourage timely renewal [~~that is equal to one half the amount charged for examination for the license~~].

(c-1) A person whose [~~If a~~] license has been expired for more than 90 days but less than one year[~~, the person~~] may renew the license by paying to the board all unpaid renewal fees and a late fee that is equal to twice the amount of a late fee under Subsection (c) [~~the amount charged for examination for the license~~].

SECTION 22. Section 301.302(a), Occupations Code, is amended to read as follows:

(a) A [~~The board may renew without examination the expired license of a~~] person who was licensed to practice professional nursing or vocational nursing in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application may obtain a new license without examination.

SECTION 23. Section 301.303, Occupations Code, is amended by adding Subsection (g) to read as follows:

(g) The board by rule may establish guidelines for targeted continuing education required under this chapter. The rules adopted under this subsection must address:

(1) the nurses who are required to complete the targeted continuing education program;

(2) the type of courses that satisfy the targeted continuing education requirement;

(3) the time in which a nurse is required to complete the targeted continuing education;

(4) the frequency with which a nurse is required to meet the targeted continuing education requirement; and

(5) any other requirement considered necessary by the board.

SECTION 24. Section 301.410, Occupations Code, is amended to read as follows:

Sec. 301.410. REPORT REGARDING IMPAIRMENT BY CHEMICAL DEPENDENCY, ~~[OR] MENTAL ILLNESS, OR DIMINISHED MENTAL CAPACITY.~~ (a) A person who is required to report a nurse under this subchapter because the nurse is impaired or suspected of being impaired by chemical dependency or mental illness may report to a peer assistance program approved by the board under Chapter 467, Health and Safety Code, instead of reporting to the board or requesting review by a nursing peer review committee.

(b) A person who is required to report a nurse under this subchapter because the nurse is impaired or suspected of being impaired by chemical dependency or diminished mental capacity must report to the board if the person believes that an impaired nurse committed a practice violation.

SECTION 25. Subchapter I, Chapter 301, Occupations Code, is amended by adding Sections 301.4105 and 301.4106 to read as follows:

Sec. 301.4105. BOARD RESPONSIBILITY FOLLOWING REPORT. The board shall determine whether a nurse violated this chapter or a rule adopted under this chapter for any case reported to the board in which the nurse's ability to perform the practice of nursing was impaired or suspected of being impaired by chemical dependency or diminished mental capacity and in which the nurse is suspected of committing a practice violation. The board, in deciding whether to take disciplinary action against the nurse for a violation of this chapter or board rules, shall balance the need to protect the public and the need to ensure the impaired nurse seeks treatment.

Sec. 301.4106. PEER ASSISTANCE PROGRAMS. The board by rule shall develop guidelines to:

(1) outline the roles and responsibilities of the board and a peer assistance program established or approved by the board under Chapter 467, Health and Safety Code;

(2) outline the process for a peer assistance program to refer to the board complaints alleging a violation of the practice of nursing;

(3) establish requirements for successfully completing a peer assistance program and for notification of the board of the successful completion by a nurse the board has ordered to attend or referred to the program; and

(4) establish a procedure for evaluating the success of a peer assistance program established or approved by the board under Chapter 467, Health and Safety Code.

SECTION 26. Section 301.452, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The board by rule shall establish guidelines to ensure that any arrest information, in particular information on arrests in which criminal action was not proven or charges were not filed or adjudicated, that is received by the board under this section is used consistently, fairly, and only to the extent the underlying conduct relates to the practice of nursing.

SECTION 27. Subchapter J, Chapter 301, Occupations Code, is amended by adding Section 301.4531 to read as follows:

Sec. 301.4531. SCHEDULE OF SANCTIONS. (a) The board by rule shall adopt a schedule of the disciplinary sanctions that the board may impose under this chapter. In adopting the schedule of sanctions, the board shall ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action.

(b) In determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, the board shall consider:

(1) whether the person:

(A) is being disciplined for multiple violations of either this chapter or a rule or order adopted under this chapter; or

(B) has previously been the subject of disciplinary action by the board and has previously complied with board rules and this chapter;

(2) the seriousness of the violation;

(3) the threat to public safety; and

(4) any mitigating factors.

(c) In the case of a person described by:

(1) Subsection (b)(1)(A), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a single violation; and

(2) Subsection (b)(1)(B), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a person who has not previously been the subject of disciplinary action by the board.

SECTION 28. Subchapter J, Chapter 301, Occupations Code, is amended by adding Sections 301.470 and 301.471 to read as follows:

Sec. 301.470. REFUND. (a) Subject to Subsection (b), the board may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to a nurse for a service regulated by this chapter or the actual amount stolen or defrauded from a patient by the nurse. The board may not require payment of other damages or estimate harm in a refund order.

Sec. 301.471. EMERGENCY CEASE AND DESIST ORDER. (a) If it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or

rule relating to the practice of professional nursing or vocational nursing and the board determines that the unauthorized activity constitutes a clear, imminent, or continuing threat to the public health and safety, the board may:

(1) issue an emergency cease and desist order prohibiting the person from engaging in the activity; and

(2) report the activity to a local law enforcement agency or the attorney general for prosecution.

(b) An order issued under Subsection (a) must:

(1) be delivered on issuance to the person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the acts or practices alleged to be an unauthorized activity and require the person immediately to cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

(c) Unless the person against whom the emergency cease and desist order is directed requests a board hearing in writing before the 11th day after the date it is served on the person, the order is final and nonappealable as to that person. A request for a board hearing must:

(1) be in writing and directed to the board; and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the board shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the board receives the request for a hearing unless the parties agree to a later hearing date. A hearing under this subsection is subject to Chapter 2001, Government Code.

(e) After the hearing, the board shall affirm, modify, or set aside wholly or partly the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) An order under this section continues in effect unless the order is stayed by the board. The board may impose any condition before granting a stay of the order.

(g) The board may release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the board determines that the release would enhance the effective enforcement of the order or will serve the public interest.

(h) A violation of an order issued under this section constitutes grounds for imposing an administrative penalty under this chapter.

SECTION 29. Section 301.502(a), Occupations Code, is amended to read as follows:

(a) The amount of the administrative penalty may not exceed \$5,000 [~~\$2,500~~] for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 30. Subtitle E, Title 3, Occupations Code, is amended by adding Chapter 305 to read as follows:

CHAPTER 305. NCSBN ADVANCED PRACTICE REGISTERED NURSE  
COMPACT

Sec. 305.001. NCSBN ADVANCED PRACTICE REGISTERED NURSE  
COMPACT. The NCSBN Advanced Practice Registered Nurse Compact is  
enacted and entered into with all other jurisdictions that legally join in the  
compact, which is as follows:

NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT

ARTICLE 1. FINDINGS AND DECLARATION OF PURPOSE

(a) The party states find that:

(1) the health and safety of the public are affected by the degree of  
compliance with APRN licensure/authority to practice requirements and the  
effectiveness of enforcement activities related to state APRN licensure/authority  
to practice laws;

(2) violations of APRN licensure/authority to practice and other laws  
regulating the practice of nursing may result in injury or harm to the public;

(3) the expanded mobility of APRNs and the use of advanced  
communication technologies as part of our nation's health care delivery system  
require greater coordination and cooperation among states in the areas of APRN  
licensure/authority to practice and regulation;

(4) new practice modalities and technology make compliance with  
individual state APRN licensure/authority to practice laws difficult and complex;

(5) the current system of duplicative APRN licensure/authority to  
practice for APRNs practicing in multiple states is cumbersome and redundant to  
both APRNs and states;

(6) uniformity of APRN requirements throughout the states promotes  
public safety and public health benefits; and

(7) access to APRN services increases the public's access to health  
care, particularly in rural and underserved areas.

(b) The general purposes of this compact are to:

(1) facilitate the states' responsibilities to protect the public's health and  
safety;

(2) ensure and encourage the cooperation of party states in the areas of  
APRN licensure/authority to practice and regulation, including promotion of  
uniform licensure requirements;

(3) facilitate the exchange of information between party states in the  
areas of APRN regulation, investigation, and adverse actions;

(4) promote compliance with the laws governing APRN practice in  
each jurisdiction; and

(5) invest all party states with the authority to hold an APRN  
accountable for meeting all state practice laws in the state in which the patient is  
located at the time care is rendered through the mutual recognition of party state  
licenses.

ARTICLE 2. DEFINITIONS

(a) "Advanced practice registered nurse" or "APRN" means a nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist to the extent a party state licenses or grants authority to practice in that APRN role and title.

(b) "Adverse action" means a home or remote state disciplinary action.

(c) "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a licensing board.

(d) "APRN licensure/authority to practice" means the regulatory mechanism used by a party state to grant legal authority to practice as an APRN.

(e) "APRN uniform licensure/authority to practice requirements" means those minimum uniform licensure, education, and examination requirements as agreed to by the compact administrators and adopted by licensing boards for the recognized APRN role and title.

(f) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on APRN licensure/authority to practice and enforcement activities related to APRN licensure/authority to practice laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards.

(g) "Current significant investigative information" means:

(1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the APRN to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the APRN represents an immediate threat to public health and safety regardless of whether the APRN has been notified and had an opportunity to respond.

(h) "Home state" means the party state that is the APRN's primary state of residence.

(i) "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws which are imposed on an APRN by the home state's licensing board or other authority, including actions against an individual's license/authority to practice such as: revocation, suspension, probation, or any other action which affects an APRN's authorization to practice.

(j) "Licensing board" means a party state's regulatory body responsible for issuing APRN licensure/authority to practice.

(k) "Multistate advanced practice privilege" means current authority from a remote state permitting an APRN to practice in that state in the same role and title as the APRN is licensed/authorized to practice in the home state to the extent that the remote state laws recognize such APRN role and title. A remote state has the authority, in accordance with existing state due process laws, to take actions against the APRN's privilege, including revocation, suspension, probation, or any other action that affects an APRN's multistate privilege to practice.

(l) "Party state" means any state that has adopted this compact.

(m) "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.

(n) "Remote state" means a party state, other than the home state:

(1) where the patient is located at the time APRN care is provided; or

(2) in the case of APRN practice not involving a patient, in such party state where the recipient of APRN practice is located.

(o) "Remote state action" means:

(1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on an APRN by the remote state's licensing board or other authority, including actions against an individual's multistate advanced practice privilege in the remote state; and

(2) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

(p) "State" means a state, territory, or possession of the United States.

(q) "State practice laws" means a party state's laws and regulations that govern APRN practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. State practice laws do not include the requirements necessary to obtain and retain APRN licensure/authority to practice as an APRN, except for qualifications or requirements of the home state.

(r) "Unencumbered" means that a state has no current disciplinary action against an APRN's license/authority to practice.

### ARTICLE 3. GENERAL PROVISIONS AND JURISDICTION

(a) All party states shall participate in the nurse licensure compact for registered nurses and licensed practical/vocational nurses in order to enter into the APRN compact.

(b) No state shall enter the APRN compact until the state adopts, at a minimum, the APRN uniform licensure/authority to practice requirements for each APRN role and title recognized by the state seeking to enter the APRN compact.

(c) APRN licensure/authority to practice issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate advanced practice privilege to the extent that the role and title are recognized by each party state. To obtain or retain APRN licensure/authority to practice as an APRN, an applicant must meet the home state's qualifications for authority or renewal of authority as well as all other applicable state laws.

(d) The APRN multistate advanced practice privilege does not include prescriptive authority, and does not affect any requirements imposed by states to grant to an APRN initial and continuing prescriptive authority according to state practice laws. However, a party state may grant prescriptive authority to an individual on the basis of a multistate advanced practice privilege to the extent permitted by state practice laws.

(e) A party state may, in accordance with state due process laws, limit or revoke the multistate advanced practice privilege in the party state and may take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. If a party state takes action, the

party state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(f) An APRN practicing in a party state must comply with the state practice laws and licensing board rules of the state in which the patient is located at the time care is provided. The APRN practice includes patient care and all advanced nursing practice defined by the party state's practice laws. The APRN practice will subject an APRN to the jurisdiction of the licensing board, the courts, and the laws of the party state.

(g) Individuals not residing in a party state may apply for APRN licensure/authority to practice as an APRN under the laws of a party state. However, the authority to practice granted to these individuals will not be recognized as granting the privilege to practice as an APRN in any other party state unless explicitly agreed to by that party state.

#### ARTICLE 4. APPLICATIONS FOR APRN LICENSURE/AUTHORITY TO PRACTICE IN A PARTY STATE

(a) Once an application for APRN licensure/authority to practice is submitted, a party state shall ascertain, through the coordinated licensure information system, whether:

(1) the applicant has held or is the holder of a nursing license/authority to practice issued by another state;

(2) the applicant has had a history of previous disciplinary action by any state;

(3) an encumbrance exists on any license/authority to practice; and

(4) any other adverse action by any other state has been taken against a license/authority to practice.

This information may be used in approving or denying an application for APRN licensure/authority to practice.

(b) An APRN in a party state shall hold APRN licensure/authority to practice in only one party state at a time, issued by the home state.

(c) An APRN who intends to change the APRN's primary state of residence may apply for APRN licensure/authority to practice in the new home state in advance of such change. However, new licensure/authority to practice will not be issued by a party state until after an APRN provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

(d) When an APRN changes primary state of residence by:

(1) moving between two party states, and obtains APRN licensure/authority to practice from the new home state, the APRN licensure/authority to practice from the former home state is no longer valid;

(2) moving from a nonparty state to a party state, and obtains APRN licensure/authority to practice from the new home state, the individual state license issued by the nonparty state is not affected and will remain in full force if so provided by the laws of the nonparty state; and

(3) moving from a party state to a nonparty state, the APRN licensure/authority to practice issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

#### ARTICLE 5. ADVERSE ACTIONS

(a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state shall have the authority to complete any pending investigations for an APRN who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(c) A remote state may take adverse action affecting the multistate advanced practice privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the APRN licensure/authority to practice issued by the home state.

(d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

(e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

(f) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require APRNs who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

(g) All home state licensing board disciplinary orders, agreed or otherwise, which limit the scope of the APRN's practice or require monitoring of the APRN as a condition of the order shall include the requirements that the APRN will limit her or his practice to the home state during the pendency of the order. This requirement may allow the APRN to practice in other party states with prior written authorization from both the home state and party state licensing boards.

#### ARTICLE 6. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

(a) Notwithstanding any other powers, party state licensing boards shall have the authority to:

(1) if otherwise permitted by state law, recover from the affected APRN the costs of investigations and disposition of cases resulting from any adverse action taken against that APRN;

(2) issue subpoenas for both hearings and investigations, which require the attendance and testimony of witnesses, and the production of evidence;

(3) issue cease and desist orders to limit or revoke an APRN's privilege or licensure/authority to practice in their state; and

(4) promulgate uniform rules and regulations as provided for in Article 8(c).

(b) Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

#### ARTICLE 7. COORDINATED LICENSURE INFORMATION SYSTEM

(a) All party states shall participate in a cooperative effort to create a coordinated database of all APRNs. This system will include information on the APRN licensure/authority to practice and disciplinary history of each APRN, as contributed by party states, to assist in the coordination of APRN licensure/authority to practice and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate advanced practice privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(e) Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(g) The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

#### ARTICLE 8. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

(a) The head of the licensing board, or his/her designee, of each party state shall be the administrator of this compact for his/her state.

(b) The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

(c) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under Article 6(a)(4).

#### ARTICLE 9. IMMUNITY

No party state or the officers or employees or agents of a party state's licensing board who act in accordance with the provisions of this compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

#### ARTICLE 10. ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

(a) This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(b) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any APRN licensure/authority to practice agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(d) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

#### ARTICLE 11. CONSTRUCTION AND SEVERABILITY

(a) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government,

agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) In the event party states find a need for settling disputes arising under this compact:

(1) the party states may submit the issues in dispute to an arbitration panel which will be composed of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators shall be final and binding.

Sec. 305.002. BOARD AUTHORITY. Notwithstanding any provision of this chapter, the Texas Board of Nursing may establish criteria for recognizing advanced practice registered nurses under the NCSBN APRN Compact.

Sec. 305.003. RULES; EXPIRATION OF CHAPTER. (a) The Texas Board of Nursing may adopt rules necessary to implement this chapter.

(b) If the board does not adopt rules to implement the compact under this chapter before December 31, 2011, the board may not implement the NCSBN APRN Compact and this chapter expires December 31, 2011.

Sec. 305.004. APPLICABILITY OF CHAPTER. If a provision of this chapter or another state's law under the NCSBN APRN Compact conflicts with the laws of this state, the laws of this state prevail.

Sec. 305.005. RIGHTS AND OBLIGATIONS. (a) Unless the context indicates otherwise, or doing so would be inconsistent with the NCSBN APRN Compact, nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Texas Board of Nursing.

(b) The Texas Board of Nursing has the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact unless that determination is inconsistent with the NCSBN APRN Compact.

Sec. 305.006. ENFORCEMENT. The Texas Board of Nursing is the state agency responsible for taking action against nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact as authorized by the NCSBN APRN Compact. The action shall be taken in accordance with the same procedures for taking action against nurses licensed by this state.

SECTION 31. Section 101.002, Occupations Code, is amended to read as follows:

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 14 members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas [~~State Board of~~] Medical Board [~~Examiners~~];
- (8) the Texas Board of Nursing [~~Nurse Examiners~~];
- (9) the Texas State Board of Examiners of Psychologists;
- (10) the Texas Funeral Service Commission;
- (11) the entity that regulates the practice of physical therapy;
- (12) the entity that regulates the practice of occupational therapy;
- (13) the health licensing division of the [~~Texas~~] Department of State Health Services; and
- (14) the governor's office.

SECTION 32. Section 157.052(a)(3), Occupations Code, is amended to read as follows:

(3) "Registered nurse" means a registered nurse recognized by the Texas Board of Nursing [~~Nurse Examiners~~] as having the specialized education and training required under Section 301.152.

SECTION 33. Section 157.059(b), Occupations Code, is amended to read as follows:

(b) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced practice nurse recognized by the Texas Board of Nursing [~~Nurse Examiners~~] as a nurse midwife the act of administering or providing controlled substances to the physician assistant's or nurse midwife's clients during intrapartum and immediate postpartum care.

SECTION 34. Section 162.102(c), Occupations Code, is amended to read as follows:

(c) The board shall cooperate with the Texas Board of Nursing [~~Nurse Examiners~~] in the adoption of rules under this subchapter to eliminate, to the extent possible, conflicts between the rules adopted by each board.

SECTION 35. Section 203.002(2), Occupations Code, is amended to read as follows:

- (2) "Certified nurse-midwife" means a person who is:
  - (A) a registered nurse under Chapter 301;
  - (B) recognized as an advanced nurse practitioner by the Texas Board of Nursing [~~Nurse Examiners~~]; and
  - (C) certified by the American College of Nurse-Midwives.

SECTION 36. Section 203.402, Occupations Code, is amended to read as follows:

Sec. 203.402. PROHIBITED REPRESENTATION. A midwife may not:

(1) except as provided by Section 203.403, use in connection with the midwife's name a title, abbreviation, or designation tending to imply that the midwife is a "registered" or "certified" midwife as opposed to one who is licensed under this chapter;

(2) advertise or represent that the midwife is a physician or a graduate of a medical school unless the midwife is licensed to practice medicine by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~;

(3) use advertising or an identification statement that is false, misleading, or deceptive; or

(4) except as authorized by rules adopted by the Texas Board of Nursing ~~[Nurse Examiners]~~, use in combination with the term "midwife" the term "nurse" or another title, initial, or designation that implies that the midwife is licensed as a registered nurse or vocational nurse.

SECTION 37. Section 258.001, Occupations Code, is amended to read as follows:

Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not delegate:

(1) an act to an individual who, by board order, is prohibited from performing the act;

(2) any of the following acts to a person not licensed as a dentist or dental hygienist:

(A) the removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed human teeth and restorations in the human mouth;

(B) root planing or the smoothing and polishing of roughened root surfaces or exposed human teeth; or

(C) any other act the delegation of which is prohibited by board rule;

(3) any of the following acts to a person not licensed as a dentist:

(A) comprehensive examination or diagnosis and treatment planning;

(B) a surgical or cutting procedure on hard or soft tissue;

(C) the prescription of a drug, medication, or work authorization;

(D) the taking of an impression for a final restoration, appliance, or prosthesis;

(E) the making of an intraoral occlusal adjustment;

(F) direct pulp capping, pulpotomy, or any other endodontic procedure;

(G) the final placement and intraoral adjustment of a fixed or removable appliance; or

(H) the placement of any final restoration; or

(4) the authority to an individual to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent if the individual is not licensed as:

(A) a dentist with a permit issued by the board for the procedure being performed, if a permit is required;

(B) a certified registered nurse anesthetist licensed by the Texas Board of Nursing [~~Nurse Examiners~~], only if the delegating dentist holds a permit issued by the board for the procedure being performed, if a permit is required; or

(C) a physician anesthesiologist licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~].

SECTION 38. Section 303.001(1), Occupations Code, is amended to read as follows:

(1) "Board" means the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 39. Sections 304.002 and 304.003, Occupations Code, are amended to read as follows:

Sec. 304.002. ADMINISTRATION OF COMPACT. The executive director of the Texas Board of Nursing [~~Nurse Examiners~~] is the Nurse Licensure Compact administrator for this state.

Sec. 304.003. RULES. The Texas Board of Nursing [~~Nurse Examiners~~] may adopt rules necessary to implement this chapter.

SECTION 40. Sections 304.004(b) and (c), Occupations Code, are amended to read as follows:

(b) Unless the context indicates otherwise or doing so would be inconsistent with the Nurse Licensure Compact, nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Texas Board of Nursing [~~Nurse Examiners~~].

(c) The Texas Board of Nursing [~~Nurse Examiners~~] has the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact unless that determination is inconsistent with the Nurse Licensure Compact.

SECTION 41. Section 304.005, Occupations Code, is amended to read as follows:

Sec. 304.005. ENFORCEMENT. The Texas Board of Nursing [~~Nurse Examiners~~] is the state agency responsible for taking action against registered and vocational nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact as authorized by the Nurse Licensure Compact. The action shall be taken in accordance with the same procedures for taking action against registered and vocational nurses licensed by this state.

SECTION 42. Section 304.006(a), Occupations Code, is amended to read as follows:

(a) On request and payment of a reasonable fee, the Texas Board of Nursing [~~Nurse Examiners~~] shall provide a registered or vocational nurse licensed by this state with a copy of information regarding the nurse maintained by the coordinated licensure information system under Article 7 of the Nurse Licensure Compact.

SECTION 43. Section 304.007, Occupations Code, is amended to read as follows:

Sec. 304.007. ACCESS TO PRACTICE-RELATED INFORMATION. Practice-related information provided by the Texas Board of Nursing [~~Nurse Examiners~~] to registered or vocational nurses licensed by this state shall be made available by the board on request and at a reasonable cost to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact.

SECTION 44. Section 304.008(a), Occupations Code, is amended to read as follows:

(a) In reporting information to the coordinated licensure information system under Article 7 of the Nurse Licensure Compact, the Texas Board of Nursing [~~Nurse Examiners~~] may disclose personally identifiable information about the nurse, including social security number.

SECTION 45. Section 304.009(a), Occupations Code, is amended to read as follows:

(a) The governor may withdraw this state from the Nurse Licensure Compact if the Texas Board of Nursing [~~Nurse Examiners~~] notifies the governor that a state that is party to the compact changed, after January 1, 1999, the state's requirements for licensing a nurse and that the state's requirements, as changed, are substantially lower than the requirements for licensing a nurse in this state.

SECTION 46. Section 401.052, Occupations Code, is amended to read as follows:

Sec. 401.052. NURSES. This chapter does not prevent or restrict a communication, speech, language, or hearing screening, as defined by board rule, from being conducted by a registered nurse:

- (1) licensed in this state; and
- (2) practicing in accordance with the standards of professional conduct and ethics established by rules adopted by the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 47. Section 601.002(11), Occupations Code, is amended to read as follows:

(11) "Registered nurse" means a person licensed by the Texas Board of Nursing [~~Nurse Examiners~~] to practice professional nursing.

SECTION 48. Section 601.251, Occupations Code, is amended to read as follows:

Sec. 601.251. APPLICABILITY. This subchapter applies to the:

- (1) Texas Board of Nursing [~~Nurse Examiners~~];
- (2) Texas Board of Chiropractic Examiners;
- (3) State Board of Dental Examiners;
- (4) Texas [~~State Board of~~] Medical Board [~~Examiners~~]; and
- (5) Texas State Board of Podiatric Medical Examiners.

SECTION 49. Section 601.252(a), Occupations Code, is amended to read as follows:

(a) Each agency subject to this subchapter, other than the Texas Board of Nursing [~~Nurse Examiners~~], shall adopt rules to regulate the manner in which a person who holds a license issued by the agency may order, instruct, or direct another authorized person in the performance of a radiologic procedure.

SECTION 50. Section 601.253, Occupations Code, is amended to read as follows:

Sec. 601.253. TEXAS BOARD OF NURSING [~~NURSE EXAMINERS~~]. (a) The Texas Board of Nursing [~~Nurse Examiners~~] may adopt rules governing registered nurses performing radiologic procedures under Section 601.151 or 601.154 and shall require registered nurses performing radiologic procedures under Section 601.151 to register with the Texas Board of Nursing [~~Nurse Examiners~~] and to identify the practitioner ordering the procedures.

(b) The Texas Board of Nursing [~~Nurse Examiners~~] shall notify the agency licensing the practitioner that the nurse has registered under this section.

SECTION 51. Sections 61.657(a) and (b), Education Code, are amended to read as follows:

(a) The board shall appoint a 10-member advisory committee to advise the board concerning assistance provided under this subchapter to professional nursing students. The advisory committee consists of:

- (1) a chair named by the board;
  - (2) one representative named by the Texas Nurses Association;
  - (3) one representative named by the Texas Organization of Nurse Executives;
  - (4) one representative named by the Texas Board of Nursing [~~Nurse Examiners~~];
  - (5) a head of each of the three types of professional nursing educational programs, named by the deans and directors of nursing programs in this state;
  - (6) a representative of graduate nursing education named by the deans and directors of nursing programs in this state;
  - (7) one representative named by the Texas Health Care Association;
- and
- (8) one representative named by the Texas Association of Homes for the Aging.

(b) The board shall appoint an eight-member advisory committee to advise the board concerning assistance provided under this subchapter to vocational nursing students. The advisory committee consists of:

- (1) a chair named by the board;
  - (2) one representative named by the Licensed Vocational Nurses Association of Texas;
  - (3) one representative named by the Texas Organization of Nurse Executives;
  - (4) one representative named by the Texas Board of Nursing [~~Nurse Examiners~~];
  - (5) two representatives of vocational nursing educational programs named by the Texas Association of Vocational Nurse Educators;
  - (6) one representative named by the Texas Health Care Association;
- and
- (7) one representative named by the Texas Association of Homes for the Aging.

SECTION 52. Section 61.9623(a), Education Code, is amended to read as follows:

(a) A grant from the professional nursing shortage reduction program to a professional nursing program or other entity involved with a professional nursing program in the preparation of students for initial licensure as registered nurses must be:

- (1) expended exclusively on costs related to:
  - (A) enrolling additional students;
  - (B) nursing faculty enhancement in accordance with Section 61.96231;
  - (C) encouraging innovation in the recruitment and retention of students, including the recruitment and retention of Spanish-speaking and bilingual students; or
  - (D) identifying, developing, or implementing innovative methods to make the most effective use of limited professional nursing program faculty, instructional or clinical space, and other resources, including:
    - (i) sharing administrative or instructional personnel, facilities, and responsibilities between two or more professional nursing programs located in the same region of this state; and
    - (ii) using preceptors to provide clinical instruction in order to reduce the number of new faculty needed to accommodate increased student enrollment in the professional nursing program;

(2) contingent on the professional nursing program's having been approved as a professional nursing program by the board or the Texas Board of Nursing [~~Nurse Examiners~~], as appropriate, by September 1, 2001;

(3) contingent on the professional nursing program's not being on probation with the Texas Board of Nursing [~~Nurse Examiners~~] or other accrediting body; and

(4) if granted to increase enrollments, contingent on the professional nursing program's ability to enroll additional students, including having the necessary classroom space and clinical slots.

SECTION 53. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

- (1) Department of Agriculture;
- (2) Texas Alcoholic Beverage Commission;
- (3) Texas Appraiser Licensing and Certification Board;
- (4) Texas Board of Architectural Examiners;
- (5) Texas Board of Chiropractic Examiners;
- (6) Comptroller of Public Accounts;
- (7) Court Reporters Certification Board;
- (8) State Board of Dental Examiners;
- (9) Texas State Board of Examiners of Dietitians;
- (10) Texas Funeral Service Commission;
- (11) Department of State Health Services;

- (12) Department of Aging and Disability Services;
- (13) Texas Board of Professional Land Surveying;
- (14) Texas Department of Licensing and Regulation;
- (15) Texas State Board of Examiners of Marriage and Family Therapists;

- (16) Texas [~~State Board of~~ Medical Board [~~Examiners~~];
- (17) Midwifery Board;
- (18) Texas Commission on Environmental Quality;
- (19) Texas Board of Nursing [~~Nurse Examiners~~];
- (20) Texas Board of Occupational Therapy Examiners;
- (21) Texas Optometry Board;
- (22) Parks and Wildlife Department;
- (23) Texas State Board of Examiners of Perfusionists;
- (24) Texas State Board of Pharmacy;
- (25) Texas Board of Physical Therapy Examiners;
- (26) Texas State Board of Plumbing Examiners;
- (27) Texas State Board of Podiatric Medical Examiners;
- (28) Polygraph Examiners Board;
- (29) Texas Private Security Board;
- (30) Texas State Board of Examiners of Professional Counselors;
- (31) Texas Board of Professional Engineers;
- (32) Department of Family and Protective Services;
- (33) Texas State Board of Examiners of Psychologists;
- (34) Texas State Board of Public Accountancy;
- (35) Department of Public Safety of the State of Texas;
- (36) Public Utility Commission of Texas;
- (37) Railroad Commission of Texas;
- (38) Texas Real Estate Commission;
- (39) State Bar of Texas;
- (40) Texas State Board of Social Worker Examiners;
- (41) State Board of Examiners for Speech-Language Pathology and

Audiology;

- (42) Texas Structural Pest Control Board;
- (43) Board of Tax Professional Examiners;
- (44) Secretary of State;
- (45) Supreme Court of Texas;
- (46) Texas Transportation Commission;
- (47) State Board of Veterinary Medical Examiners;
- (48) Texas Ethics Commission;
- (49) Advisory Board of Athletic Trainers;
- (50) State Committee of Examiners in the Fitting and Dispensing of

Hearing Instruments;

- (51) Texas Board of Licensure for Professional Medical Physicists;
- (52) Texas Department of Insurance;
- (53) Texas Board of Orthotics and Prosthetics;
- (54) savings and loan commissioner;

(55) Texas Juvenile Probation Commission; and

(56) Texas Lottery Commission under Chapter 466, Government Code.

SECTION 54. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing ~~[Nurse Examiners]~~;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and loan commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission; and
- (23) the Department of Aging and Disability Services.

SECTION 55. Section 411.125, Government Code, is amended to read as follows:

Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF NURSING ~~[NURSE EXAMINERS]~~.

~~(a)~~ The Texas Board of Nursing ~~[Nurse Examiners]~~ is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

- (1) is an applicant for or the holder of a license issued by the board;
- (2) has requested a determination of eligibility for a license from the board; or

(3) is subject to investigation by the board in connection with a complaint or formal charge against the person.

SECTION 56. Section 487.101(3), Government Code, is amended to read as follows:

(3) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or

(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Texas Board of Nursing [~~Nurse Examiners~~], or, in the case of allied health, an accrediting body recognized by the United States Department of Education.

SECTION 57. Section 487.151(2), Government Code, is amended to read as follows:

(2) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or

(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Texas Board of Nursing [~~Nurse Examiners~~], or, in the case of allied health, an accrediting body recognized by the United States Department of Education.

SECTION 58. Section 531.02172(b), Government Code, is amended to read as follows:

(b) The advisory committee must include:

(1) representatives of health and human services agencies and other state agencies concerned with the use of telemedical consultations in the Medicaid program and the state child health plan program, including representatives of:

(A) the commission;

(B) the [~~Texas~~] Department of State Health Services;

(C) the Office of Rural Community Affairs;

(D) the Telecommunications Infrastructure Fund Board;

(E) the Texas Department of Insurance;

(F) the Texas [~~State Board of~~] Medical Board [~~Examiners~~];

(G) the Texas Board of Nursing [~~Nurse Examiners~~]; and

(H) the Texas State Board of Pharmacy;

(2) representatives of health science centers in this state;

(3) experts on telemedicine, telemedical consultation, and telemedicine medical services or telehealth services; and

(4) representatives of consumers of health services provided through telemedical consultations and telemedicine medical services or telehealth services.

SECTION 59. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

- (1) Texas Board of Chiropractic Examiners;
- (2) Court Reporters Certification Board;
- (3) State Board of Dental Examiners;
- (4) Texas Funeral Service Commission;
- (5) Texas Board of Professional Land Surveying;
- (6) Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~;
- (7) Texas Board of Nursing ~~[Nurse Examiners]~~;
- (8) Texas Optometry Board;
- (9) Texas Structural Pest Control Board;
- (10) Texas State Board of Pharmacy;
- (11) Executive Council of Physical Therapy and Occupational Therapy Examiners;
- (12) Texas State Board of Plumbing Examiners;
- (13) Texas State Board of Podiatric Medical Examiners;
- (14) Board of Tax Professional Examiners;
- (15) Polygraph Examiners Board;
- (16) Texas State Board of Examiners of Psychologists;
- (17) State Board of Veterinary Medical Examiners;
- (18) Texas Real Estate Commission;
- (19) Texas Appraiser Licensing and Certification Board;
- (20) Texas Department of Licensing and Regulation;
- (21) Texas State Board of Public Accountancy;
- (22) State Board for Educator Certification;
- (23) Texas Board of Professional Engineers;
- (24) Department of State Health Services;
- (25) Texas Board of Architectural Examiners;
- (26) Texas Racing Commission;
- (27) Commission on Law Enforcement Officer Standards and Education; and
- (28) Texas Private Security Board.

SECTION 60. Section 47.001(3), Health and Safety Code, is amended to read as follows:

(3) "Health care provider" means a registered nurse recognized as an advanced practice nurse by the Texas Board of Nursing ~~[Nurse Examiners]~~ or a physician assistant licensed by the Texas ~~[State Board of]~~ Physician Assistant Board ~~[Examiners]~~.

SECTION 61. Section 81.010(c), Health and Safety Code, is amended to read as follows:

(c) The council consists of one representative from each of the following agencies appointed by the executive director or commissioner of each agency:

- (1) the department;
- (2) the Texas Department of Mental Health and Mental Retardation;
- (3) the Texas Department of Human Services;
- (4) the Texas Commission on Alcohol and Drug Abuse;
- (5) the Texas Rehabilitation Commission;
- (6) the Texas Youth Commission;
- (7) the Texas Department of Criminal Justice;
- (8) the Texas Juvenile Probation Commission;
- (9) the Texas Commission for the Blind;
- (10) the Texas Commission for the Deaf and Hard of Hearing;
- (11) the Department of Protective and Regulatory Services;
- (12) the Texas Education Agency;
- (13) the Texas Medical [~~State~~] Board [~~of Medical Examiners~~];
- (14) the Texas Board of Nursing [~~Nurse Examiners~~];
- (15) the State Board of Dental Examiners;
- (16) the Health and Human Services Commission;
- (17) the Texas Department on Aging; and
- (18) the Texas Workforce Commission.

SECTION 62. Section 105.002(c), Health and Safety Code, is amended to read as follows:

(c) If the nursing resource section established under Subsection (b) is funded from surcharges collected under Section 301.155(c), Occupations Code, the council shall provide the Texas Board of Nursing [~~Nurse Examiners~~] with an annual accounting of the money received from the board. The council may expend a reasonable amount of the money to pay administrative costs of maintaining the nursing resource section.

SECTION 63. Section 142.001(22), Health and Safety Code, is amended to read as follows:

(22) "Personal assistance service" means routine ongoing care or services required by an individual in a residence or independent living environment that enable the individual to engage in the activities of daily living or to perform the physical functions required for independent living, including respite services. The term includes:

(A) personal care;

(B) health-related services performed under circumstances that are defined as not constituting the practice of professional nursing by the Texas Board of Nursing [~~Nurse Examiners~~] through a memorandum of understanding with the department in accordance with Section 142.016; and

(C) health-related tasks provided by unlicensed personnel under the delegation of a registered nurse or that a registered nurse determines do not require delegation.

SECTION 64. Sections 142.016(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The Texas Board of Nursing [~~Nurse Examiners~~] and the department shall adopt a memorandum of understanding governing the circumstances under which the provision of health-related tasks or services do not constitute the practice of professional nursing. The agencies periodically shall review and shall renew or modify the memorandum as necessary.

(b) The Texas Board of Nursing [~~Nurse Examiners~~] and the department shall consult with an advisory committee in developing, modifying, or renewing the memorandum of understanding. The advisory committee shall be appointed by the Texas Board of Nursing [~~Nurse Examiners~~] and the department and at a minimum shall include:

(1) one representative from the Texas Board of Nursing [~~Nurse Examiners~~] and one representative from the department to serve as cochairmen;

(2) one representative from the Texas Department of Mental Health and Mental Retardation;

(3) one representative from the Texas Nurses Association;

(4) one representative from the Texas Association for Home Care, Incorporated, or its successor;

(5) one representative from the Texas Hospice Organization, Incorporated, or its successor;

(6) one representative of the Texas Respite Resource Network or its successor; and

(7) two representatives of organizations such as the Personal Assistance Task Force or the Disability Consortium that advocate for clients in community-based settings.

SECTION 65. Section 142.021, Health and Safety Code, is amended to read as follows:

Sec. 142.021. ADMINISTRATION OF MEDICATION. A person may not administer medication to a client of a home and community support services agency unless the person:

(1) holds a license under state law that authorizes the person to administer medication;

(2) holds a permit issued under Section 142.025 and acts under the delegated authority of a person who holds a license under state law that authorizes the person to administer medication;

(3) administers a medication to a client of a home and community support service agency in accordance with rules of the Texas Board of Nursing [~~Nurse Examiners~~] that permit delegation of the administration of medication to a person not holding a permit under Section 142.025; or

(4) administers noninjectable medication under circumstances authorized by the memorandum of understanding adopted under Section 142.016.

SECTION 66. Section 142.022, Health and Safety Code, is amended to read as follows:

Sec. 142.022. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 142.021 and 142.029 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

(2) a student enrolled in an accredited school of nursing or program for the education of registered nurses who is administering medications as part of the student's clinical experience;

(3) a graduate vocational nurse holding a temporary permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program approved by the department under Section 142.024 who is administering medications as part of the trainee's clinical experience.

(b) The administration of medications by persons exempted under Subdivisions (1) through (4) of Subsection (a) is governed by the terms of the memorandum of understanding executed by the department and the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 67. Section 241.003(1), Health and Safety Code, is amended to read as follows:

(1) "Advanced practice nurse" means a registered nurse recognized as an advanced practice nurse by the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 68. Section 241.026(a), Health and Safety Code, is amended to read as follows:

(a) The board shall adopt and enforce rules to further the purposes of this chapter. The rules at a minimum shall address:

(1) minimum requirements for staffing by physicians and nurses;

(2) hospital services relating to patient care;

(3) fire prevention, safety, and sanitation requirements in hospitals;

(4) patient care and a patient bill of rights;

(5) compliance with other state and federal laws affecting the health, safety, and rights of hospital patients; and

(6) compliance with nursing peer review under Subchapter I, Chapter 301, and Chapter 303, Occupations Code, and the rules of the Texas Board of Nursing [~~Nurse Examiners~~] relating to peer review.

SECTION 69. Section 242.607, Health and Safety Code, is amended to read as follows:

Sec. 242.607. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 242.606 and 242.614 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

(2) a student enrolled in an accredited school of nursing or program for the education of registered nurses who is administering medications as part of the student's clinical experience;

(3) a graduate vocational nurse holding a temporary permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program approved by the department under this subchapter who is administering medications as part of the trainee's clinical experience.

(b) The administration of medications by persons exempted under Subdivisions (1) through (4) of Subsection (a) is governed by the terms of the memorandum of understanding executed by the department and the Texas Board of Nursing [~~Nurse Examiners~~].

SECTION 70. Section 36.132(a)(2), Human Resources Code, is amended to read as follows:

(2) "Licensing authority" means:

(A) the Texas [~~State Board of~~] Medical Board [~~Examiners~~];

(B) the State Board of Dental Examiners;

(C) the Texas State Board of Examiners of Psychologists;

(D) the Texas State Board of Social Worker Examiners;

(E) the Texas Board of Nursing [~~Nurse Examiners~~];

(F) the Texas Board of Physical Therapy Examiners;

(G) the Texas Board of Occupational Therapy Examiners; or

(H) another state agency authorized to regulate a provider who receives or is eligible to receive payment for a health care service under the Medicaid program.

SECTION 71. Section 1451.001(2), Insurance Code, is amended to read as follows:

(2) "Advanced practice nurse" means an individual licensed by the Texas Board of Nursing [~~Nurse Examiners~~] as a registered nurse and recognized by that board as an advanced practice nurse.

SECTION 72. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

Sec. 51.969. EMPLOYMENT POLICIES FOR NURSES IN MEDICAL AND DENTAL UNITS. (a) The president of a medical and dental unit, as defined by Section 61.003, shall determine whether a nurse employed by the unit for patient care or clinical activities is a full-time employee for purposes of:

(1) employees group benefits under Chapter 1551 or 1601, Insurance Code;

(2) leave under Chapter 661 or 662, Government Code;

(3) longevity pay under Section 659.043, Government Code.

(b) A determination under Subsection (a) does not entitle a nurse who works less than 40 hours a week to the full state contribution to the cost of any coverage or benefits. However, from money other than money appropriated from the general revenue fund, the employing medical and dental unit may contribute to that cost amounts in excess of the state contribution.

SECTION 73. Chapter 61, Education Code, is amended by adding Subchapter EE to read as follows:

SUBCHAPTER EE. TEXAS HOSPITAL-BASED NURSING EDUCATION  
PARTNERSHIP GRANT PROGRAM

Sec. 61.9751. DEFINITIONS. In this subchapter:

(1) "Hospital-based nursing education partnership" means a partnership that:

(A) consists of one or more hospitals in this state that are not owned, maintained, or operated by the federal or state government or an agency of the federal or state government and one or more nursing education programs in this state; and

(B) serves to increase the number of students enrolled in and graduation rates for each nursing education program in the partnership.

(2) "Nursing education program" means an undergraduate professional nursing program or a graduate professional nursing program as those terms are defined by Section 54.221.

Sec. 61.9752. PROGRAM: ESTABLISHMENT; ADMINISTRATION; PURPOSE. (a) The Texas hospital-based nursing education partnership grant program is established.

(b) The board shall administer the program in accordance with this subchapter and rules adopted under this subchapter.

(c) Under the program, to the extent funds are available under Section 61.9755, the board shall make grants to hospital-based nursing education partnerships to assist those partnerships to meet the state's needs for registered nurses by increasing the number of nursing education program graduates through innovative instruction, through collaboration between hospitals and nursing education programs, and the use of the existing expertise and facilities of those hospitals and programs.

Sec. 61.9753. GRANTS: CONDITIONS; LIMITATIONS. (a) The board may make a grant under this subchapter to a hospital-based nursing education partnership only if the board determines that:

(1) the partnership will meet applicable board and Texas Board of Nursing standards for instruction and student competency for the associate, bachelor of science, or master of science nursing degree granted by each nursing education program participating in the partnership;

(2) each nursing education program participating in the partnership will, as a result of the partnership, enroll in the nursing education program a sufficient number of additional students as established by the board;

(3) the marginal cost to the state of producing a graduate of a nursing education program participating in the partnership will be comparable, as determined under criteria established by board rule, to the marginal cost to the state of producing a graduate of a nursing education program not participating in a partnership;

(4) each hospital participating in a partnership with a nursing education program will provide to students enrolled in the program clinical placements that:

(A) allow the students to take part in providing or to observe, as appropriate, medical services offered by the hospital; and

(B) meet the clinical education needs of the students; and

(5) the partnership will satisfy any other requirement established by board rule.

(b) In establishing the cost-comparison criteria under Subsection (a)(3), the board shall exclude reasonable development and initial implementation costs for the infrastructure necessary to support a hospital-based nursing education partnership.

(c) A grant under this subchapter may be spent only on costs related to the development or operation of a hospital-based nursing education partnership that:

(1) prepares a student to earn an associate or bachelor of science degree in nursing and to achieve initial licensure as a registered nurse, including by providing an accelerated program to prepare a student to earn a bachelor of science degree in nursing;

(2) prepares a student to earn a master of science degree in nursing with a concentration in education; or

(3) provides an articulation program providing for advancement from an associate degree to a bachelor of science degree in nursing or to a master of science degree in nursing with a concentration in education.

(d) A hospital-based nursing education partnership shall return to the board money granted to the partnership under this subchapter that the partnership does not spend on eligible costs under Subsection (c). As the board determines appropriate to best achieve the purposes of these programs, the board may:

(1) use the money to make grants to other hospital-based nursing education partnerships;

(2) use the money to make grants under the professional nursing shortage reduction program established under Subchapter Z; or

(3) transfer the money to the permanent fund for higher education nursing, allied health, and other health-related programs established under Subchapter C, Chapter 63, for use in making grants under that subchapter.

Sec. 61.9754. PRIORITY FOR FUNDING. In awarding a grant under this subchapter, the board shall give priority to a hospital-based nursing education partnership that submits a proposal that:

(1) provides for collaborative educational models between one or more participating hospitals and one or more participating nursing education programs that have signed a memorandum of understanding or other written agreement under which the participants agree to comply with standards established by the board, including any standards the board may establish that:

(A) provide for program management that offers a centralized decision-making process allowing for inclusion of each entity participating in the partnership;

(B) provide for access to clinical training positions for students in nursing education programs that are not participating in the partnership; and

(C) specify the details of any requirement relating to a student in a nursing education program participating in the partnership being employed after graduation in a hospital participating in the partnership, including any details relating to the employment of students who do not complete the program, are not offered a nursing position at the hospital, or choose to pursue other employment;

(2) includes a demonstrable education model to:

(A) increase the number of students enrolled in, the number of students graduating from, and the number of nursing faculty employed by each nursing education program participating in the partnership; and

(B) improve student retention in each nursing education program;

(3) indicates the availability of money to match all or a portion of the grant money, including matching money from a hospital, private or nonprofit entity, or institution of higher education;

(4) provides for completion of a class admitted under this project to be funded by all members of the partnership if the funded project ends before the class graduation date;

(5) can be replicated by other hospital-based nursing education partnerships or nursing education programs; and

(6) includes plans for sustainability of the partnership beyond the grant period.

Sec. 61.9755. GRANTS, GIFTS, AND DONATIONS. In addition to money appropriated by the legislature, the board may solicit, receive, and spend grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 61.9756. RULES. The board shall adopt rules for the administration of the Texas hospital-based nursing education partnership grant program. The rules must include:

(1) provisions relating to applying for a grant under this subchapter;

and

(2) standards of accountability to be met by any hospital-based nursing education partnership awarded a grant under this subchapter.

Sec. 61.9757. APPROVAL AS NURSING EDUCATION PILOT PROGRAM. The board and the Texas Board of Nursing shall establish a single application process under which a hospital-based nursing education partnership may apply both for approval as a pilot program under Section 301.1605, Occupations Code, and for a grant under this subchapter.

Sec. 61.9758. REPORTING REQUIREMENTS. (a) Each hospital-based nursing education partnership that receives a grant under this subchapter shall submit to the board reports, including financial reports, that provide information concerning the extent to which during the reporting period the partnership has complied with accountability standards established by the board.

(b) Not later than December 31 of each even-numbered year, the board shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives. The report shall include a list and description of partnerships created under this subchapter, and the number of new nursing student enrollees.

Sec. 61.9759. ADMINISTRATIVE COSTS. A reasonable amount, not to exceed three percent, of any money appropriated for purposes of this subchapter may be used to pay the costs of administering this subchapter.

SECTION 74. The following laws are repealed:

(1) Section 301.059(d), Occupations Code; and

(2) Sections 301.160(f), (g), and (h), Occupations Code.

SECTION 75. (a) On the effective date of this Act, the name of the Board of Nurse Examiners is changed to the Texas Board of Nursing.

(b) A member serving on the Board of Nurse Examiners on the effective date of this Act may continue to serve as a member of the Texas Board of Nursing for the remainder of the member's term.

(c) The Texas Board of Nursing shall:

(1) comply with and implement any nonstatutory recommendations regarding the board adopted by the Sunset Advisory Commission as a result of its review of the board; and

(2) report to the commission the information the commission requires regarding the board's implementation of the commission's nonstatutory recommendations not later than November 1, 2008.

SECTION 76. (a) Not later than January 1, 2008, the Texas Board of Nursing shall:

(1) adopt the policies required by Sections 301.166 and 301.167, Occupations Code, as added by this Act; and

(2) adopt the rules required by Chapter 301, Occupations Code, as amended by this Act.

(b) Not later than September 1, 2008, the Texas Board of Nursing shall:

(1) develop the jurisprudence examination required by Section 301.252, Occupations Code, as amended by this Act; and

(2) implement the plan for creating innovative nursing education models as required under Section 301.157(h), Occupations Code, as added by this Act, and report to the Sunset Advisory Commission regarding the plan and the board's effort to increase enrollment in nursing education programs.

SECTION 77. The requirement to pass a jurisprudence examination under Section 301.252, Occupations Code, as amended by this Act, applies only to an individual who applies for a license as a nurse under Chapter 301, Occupations Code, on or after September 1, 2008.

SECTION 78. (a) The changes in law made by Sections 301.052 and 301.053, Occupations Code, as amended by this Act, regarding the prohibitions on or qualifications of members of the Texas Board of Nursing do not affect the entitlement of a member serving on the Board of Nurse Examiners immediately before September 1, 2007, to continue to serve and function as a member of the Texas Board of Nursing for the remainder of the member's term. The changes in law made by those sections apply only to a member appointed on or after September 1, 2007.

(b) The changes in law made by this Act related to the filing, investigation, or resolution of a complaint under Chapter 301, Occupations Code, as amended by this Act, apply only to a complaint filed with the Texas Board of Nursing on or after the effective date of this Act. A complaint filed before the effective date of this Act is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act governing the authority of the Texas Board of Nursing to issue, renew, or revoke a license under Chapter 301, Occupations Code, apply only to an application for an original or renewal license

filed with the board under Chapter 301, Occupations Code, as amended by this Act, on or after the effective date of this Act. A license application filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act with respect to conduct that is grounds for imposition of a disciplinary sanction, including a refund, temporary license suspension, or cease and desist order, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 79. As soon as practicable after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules for the implementation and administration of the Texas hospital-based nursing education partnership grant program established under Subchapter EE, Chapter 61, Education Code, as added by this Act. The board may adopt the initial rules in the manner provided by law for emergency rules.

SECTION 80. This Act takes effect September 1, 2007.

**HB 3068 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3068**, A bill to be entitled An Act relating to the authority and responsibilities of certain political subdivisions in relation to development.

Representative Guillen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3068**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3068**: Guillen, chair; C. Howard, Talton, Peña, and Pierson.

**HB 2944 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2944**, A bill to be entitled An Act relating to permits for erecting certain outdoor signs or advertising.

Representative Murphy moved to concur in the senate amendments to **HB 2944**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1751): 132 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Anderson; Coleman; Delisi; Dunnam; Kolkhorst; Moreno; Mowery; Oliveira; Parker; Straus; Thompson; Vaught; Woolley; Zerwas.

#### STATEMENTS OF VOTE

When Record No. 1751 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

I was shown voting yes on Record No. 1751. I intended to vote no.

Aycock

#### Senate Committee Substitute

**CSHB 2944**, A bill to be entitled An Act relating to permits for erecting certain outdoor signs or advertising.

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

SECTION 1. Section 391.068, Transportation Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Subsection (d), the ~~The~~ commission shall issue a permit to a person with a license issued under this subchapter:

(1) whose license application complies with rules adopted under Section 391.065; and

(2) whose outdoor advertising, whether owned or leased, if erected would comply with this chapter and rules adopted under Section 391.032(a).

(d) In addition to the requirements of Subsection (a), if the outdoor advertising is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate outdoor advertising, the commission may issue a permit under this section only if the municipality:

(1) has not acted to prohibit new outdoor advertising within the jurisdiction of the municipality; and

(2) has issued a permit authorizing the outdoor advertising.

(e) Subsection (d) does not apply to the relocation of outdoor advertising to another location if the construction, reconstruction, or expansion of a highway requires the removal of the outdoor advertising.

SECTION 2. Section 394.021, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) If the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise signs, the commission may not issue a permit under this section if the municipality has acted to prohibit new off-premise signs within the jurisdiction of the municipality.

SECTION 3. Section 394.022, Transportation Code, is amended to read as follows:

Sec. 394.022. ISSUANCE OF PERMIT. (a) The commission shall issue a permit to a person:

(1) whose application complies with commission rule;

(2) ~~and~~ whose sign, if erected, would comply with the requirements of this chapter; and

(3) who, if the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise signs, has obtained a permit for the off-premise sign.

(b) Subsection (a)(3) does not apply to the relocation of an off-premise sign to another location if the construction, reconstruction, or expansion of a highway requires the removal of the off-premise sign.

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

### **HB 4007 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4007**, A bill to be entitled An Act relating to the county courts at law in Nueces County.

Representative Ortiz moved to concur in the senate amendments to **HB 4007**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1752): 130 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Gonzales; Gonzalez

Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Chavez; Coleman; Delisi; Deshotel; Driver; Dunnam; Gallego; Giddings; Kolkhorst; Martinez; Moreno; Oliveira; Peña; Rodriguez; Thompson; Woolley.

#### STATEMENT OF VOTE

When Record No. 1752 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

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

Amend **HB 4007** (House Engrossed Version) by striking SECTION 3 of the bill (page 1, line 16) and substituting the following appropriately numbered SECTION:

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

#### **HB 1093 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1093**, A bill to be entitled An Act relating to the offense of funeral service disruption.

Representative Geren moved to concur in the senate amendments to **HB 1093**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1753): 140 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Dunnam; Elkins; Kolkhorst; Moreno; Oliveira; Thompson.

### STATEMENT OF VOTE

When Record No. 1753 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

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

Amend **HB 1093** as follows:

(1) In Section 3 of the bill, page 1 line 19 strike "This Act takes effect September 1, 2007." and substitute "This act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007."

### HB 1786 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 1786**, A bill to be entitled An Act relating to certain regulations and licensing exemptions applying to certain child-care programs.

Representative Swinford moved to concur in the senate amendments to **HB 1786**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1754):  
137 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anderson; Coleman; Davis, J.; Dunnam; Kolkhorst; Moreno; Noriega; Oliveira; Rodriguez; Thompson.

### STATEMENT OF VOTE

When Record No. 1754 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

### Senate Committee Substitute

**CSHB 1786**, A bill to be entitled An Act relating to an exemption for certain programs from the child-care licensing requirements.

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

SECTION 1. Section 42.041(b), Human Resources Code, is amended to read as follows:

(b) This section does not apply to:

- (1) a state-operated facility;
- (2) an agency foster home or agency foster group home;
- (3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the [~~Texas~~] Department of State Health Services;

(6) a facility licensed, operated, certified, or registered by another state agency;

(7) an educational facility accredited by the Texas Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above, an after-school program operated directly by an accredited educational facility, or an after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency or Southern Association of Colleges and Schools has approved the curriculum content of the after-school program operated under the contract;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades;

(12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 32.201, Family Code, unless the facility would otherwise require a license as a child-care facility under this section;

(13) a juvenile detention facility certified under Section 51.12, Family Code, or Section 141.042(d), a juvenile facility providing services solely for the Texas Youth Commission, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms

for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility; [✕]

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless; or

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older;

and

(B) is operated by a nonprofit food bank in a nonprofit, religious, or educational facility for not more than two hours a day on regular business days.

SECTION 2. This Act takes effect September 1, 2007.

### **HB 1857 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1857**, A bill to be entitled An Act relating to the identification and regulation of land located in a future transportation corridor of a county.

Representative Murphy moved to concur in the senate amendments to **HB 1857**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1755): 135 Yeas, 3 Nays, 1 Present, not voting.

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

Nays — Crabb; Harper-Brown; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Callegari; Coleman; Dunnam; Hopson; Kolkhorst; Merritt; Moreno; Oliveira; Rodriguez.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1755. I intended to vote no.

Flynn

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

Amend **HB 1857** as follows:

(1) Strike Section 232.0033, Local Government Code (engrossed version page 2, lines 1-22), and substitute the following:

Sec. 232.0033. ADDITIONAL REQUIREMENTS: FUTURE TRANSPORTATION CORRIDORS. (a) This section applies to each county in the state. The requirements provided by this section are in addition to the other requirements of this chapter.

(b) If all or part of a subdivision for which a plat is required under this chapter is located within a future transportation corridor identified in an agreement under Section 201.619, Transportation Code:

(1) the commissioners court of a county in which the land is located:

(A) may refuse to approve the plat for recordation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(B) may refuse to approve the plat for recordation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(2) each purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.

### HB 2106 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2106**, A bill to be entitled An Act relating to the regulation of barbering and cosmetology.

Representative Chisum moved to concur in the senate amendments to **HB 2106**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1756):  
139 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Coleman; Dunnam; Guillen; Kolkhorst; Merritt; Moreno; Oliveira; Raymond.

### **Senate Committee Substitute**

**CSHB 2106**, A bill to be entitled An Act relating to the regulation of barbering and cosmetology.

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

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or indirectly made separately from a charge for any other service;

(C) cleansing, stimulating, or massaging a person's scalp, face, neck, arms, or shoulders:

(i) by hand or by using a device, apparatus, or appliance; and

(ii) with or without the use of any cosmetic preparation, antiseptic, tonic, lotion, or cream;

(D) beautifying a person's face, neck, arms, or shoulders using a cosmetic preparation, antiseptic, tonic, lotion, powder, oil, clay, cream, or appliance;

(E) treating a person's nails by:

(i) cutting, trimming, polishing, tinting, coloring, cleansing, manicuring, or pedicuring; or

(ii) attaching false nails;

(F) massaging, cleansing, treating, or beautifying a person's hands;

(G) administering facial treatments;

(H) weaving a person's hair by using any method to attach commercial hair to a person's hair or scalp;

(I) shampooing or conditioning a person's hair; ~~or~~

(J) servicing in any manner listed in Paragraph (B) a person's wig, toupee, or artificial hairpiece on a person's head or on a block after the initial retail sale; or

(K) braiding a person's hair, trimming hair extensions only as applicable to the braiding process, and attaching commercial hair only by braiding and without the use of chemicals or adhesives;

(2) advertising or representing to the public in any manner that a person is a barber or is authorized to practice barbering; or

(3) advertising or representing to the public in any manner that a location or place of business is a barbershop, specialty shop, or barber school.

SECTION 2. Section 1601.253(b), Occupations Code, is amended to read as follows:

(b) The department shall issue a Class A barber certificate to an applicant who:

(1) complies with the application requirements of this chapter;

(2) passes the applicable examination [~~with an average grade of at least 75 percent~~];

(3) pays the required fee; and

(4) possesses the other qualifications required by this chapter.

SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is amended by adding Sections 1601.258 and 1601.259 to read as follows:

Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving specialty certificate of registration may perform only barbering as defined by Section 1601.002(1)(H).

(b) An applicant for a hair weaving specialty certificate of registration must:

(1) be at least 17 years of age; and  
 (2) satisfy the requirements specified by the department, including training through a commission-approved training program.

(c) The department shall issue a hair weaving specialty certificate of registration to an applicant who:

(1) possesses the qualifications described by Subsection (b);  
 (2) pays the required registration fee; and  
 (3) has not committed an act that constitutes a ground for denial of the certificate.

Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding specialty certificate of registration may perform only barbering as defined by Section 1601.002(1)(K).

(b) An applicant for a hair braiding specialty certificate must:  
 (1) be at least 17 years of age; and  
 (2) satisfy the requirements specified by the department, including training through a commission-approved training program.

(c) The department shall issue a hair braiding specialty certificate of registration to an applicant who:

(1) possesses the qualifications described by Subsection (b);  
 (2) pays the required registration fee; and  
 (3) has not committed an act that constitutes a ground for denial of the certificate.

SECTION 4. Section 1601.303, Occupations Code, is amended to read as follows:

Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The department shall issue a barbershop permit to an applicant if:

(1) the applicant owns the barbershop; ~~and~~  
 (2) the applicant verifies the application; and  
 (3) the shop meets the minimum health standards for barbershops set by the commission and complies with all other commission rules.

SECTION 5. Sections 1601.304 and 1601.305, Occupations Code, are amended to read as follows:

Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A person who holds a ~~[manicurist]~~ specialty shop permit may maintain an establishment in which only barbering as defined by Section ~~[Sections]~~ 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. ~~[A manicurist specialty shop may be operated only under the direction of a person who holds a manicurist license.]~~

(b) An applicant for a ~~[manicurist]~~ specialty shop permit must submit:  
 (1) an application on a department-approved form ~~[that includes:~~  
~~[(A) the shop's address;~~  
~~[(B) the legal description of the premises for which the permit is sought; and~~  
~~[(C) any other information required by the department]; and~~  
 (2) the required inspection fee.

~~[(e) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a [permanent manicurist] specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop ~~[holds a manicurist license]; [and]~~

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter ~~[the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule].~~

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

(1) a ~~[an adequate school site housed in a substantial]~~ building of permanent construction containing at least 2,800 square feet of floor space, divided into at least:

(A) a senior department;

(B) a junior department;

(C) a class theory room;

(D) a supply room;

(E) an office space; and

(F) ~~[a dressing and cloak room; and~~

~~[(G) two sanitary, modern,] separate restrooms for male and female students~~, each equipped with one commode and one of which is also equipped with a urinal];

(2) a hard-surface floor-covering of tile or other suitable material;

(3) at least 20 modern barber chairs, including a cabinet and mirror for each chair;

(4) a sink ~~[lavatory]~~ behind every two barber chairs;

(5) a liquid sterilizer for each barber chair;

(6) an adequate number of latherers, vibrators, and hair dryers for student use;

(7) adequate lighting for each room;

(8) at least 20 classroom chairs, a blackboard, anatomical charts of the head, neck, and face, and one barber chair in the class theory room;

(9) ~~[a library with library facilities available to students containing]~~ at least one medical dictionary and a standard work on human anatomy;

(10) adequate drinking fountain facilities, with at least one for each floor; and

(11) at least one fire extinguisher ~~[adequate toilet facilities for the students; and~~

~~[(12) adequate fire fighting equipment].~~

SECTION 7. Section 1601.453, Occupations Code, is amended to read as follows:

Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by the department may practice barbering only at a location for which the department has issued a barbershop permit, specialty shop permit, or barber school permit under this chapter or a permit issued under Chapter 1603.

SECTION 8. Section 1602.256, Occupations Code, is amended to read as follows:

Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY LICENSE. (a) A person holding a manicurist specialty license may perform only the practice of cosmetology defined in Section 1602.002(a)(10) or (11) ~~[1602.002(9) or (10)].~~

(b) To be eligible for a manicurist specialty license, an applicant must:

(1) be at least 17 years of age;

(2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and

(3) have completed 600 hours of instruction in manicuring through a commission-approved training program.

SECTION 9. Section 1602.257(a), Occupations Code, is amended to read as follows:

(a) A person holding a facialist specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9) ~~[Section 1602.002(7)].~~

SECTION 10. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4) ~~[Section 1602.002(2), (3), (4), or (7)].~~

(b) To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

~~(2) [have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and~~

~~[(3)]~~ have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work; and~~  
~~[(4)]~~ contain a statement that the building:

(A) ~~is fireproof;~~

~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

(i) one area for instruction in theory; and

(ii) one area for clinic work;

(B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;

(C) ~~[(D)]~~ has separate restrooms for male and female students; and

(D) ~~[(E)]~~ contains, or will contain before classes begin, the equipment established by commission rule as sufficient to properly instruct a minimum of 50 students.

SECTION 13. Section 1602.354, Occupations Code, is amended to read as follows:

Sec. 1602.354. CONTINUING EDUCATION. (a) The commission will by rule recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is mandatory for all license renewals.

(b) The commission may only require a license holder to complete continuing education of not more than four hours in health and safety courses if the license holder:

(1) is at least 65 years of age; and

(2) has held a cosmetology license for at least 15 years.

SECTION 14. Section 1602.403(a), Occupations Code, is amended to read as follows:

(a) A private beauty culture school may not employ:

(1) a person holding an operator license, manicurist specialty license, or specialty certificate solely to perform the practices of cosmetology for which the person is licensed or certified; or

(2) a person holding an instructor license to perform any act or practice of cosmetology.

SECTION 15. Section 1603.103, Occupations Code, is amended to read as follows:

Sec. 1603.103. INSPECTION OF SCHOOLS~~[, SHOPS, AND FACILITIES]~~ BEFORE OPERATION. (a) Until the department determines, by inspection, that the person has established the school~~[, shop, or facility]~~ in compliance with this chapter, Chapter 1601, or Chapter 1602, a person may not operate a school~~[, shop, or other facility]~~ licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.

(b) A school~~[, shop, or other facility]~~ that is not approved by the department on initial inspection may be reinspected.

(c) The department may charge the school~~[, shop, or other facility]~~ ~~shall pay~~ a fee for each inspection. The commission shall by rule set the amount of the fee.

SECTION 16. Sections 1603.104(b) and (e), Occupations Code, are amended to read as follows:

(b) At least once every two years, the department shall inspect each ~~[school,]~~ shop~~;~~ or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and at least twice per year, the department shall inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.

(e) The department may charge the school, shop, or other facility ~~[shall pay]~~ a fee for each inspection performed under Subsection (c). The commission shall by rule set the amount of the fee.

SECTION 17. Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.1045 to read as follows:

Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department inspections of a school, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602.

SECTION 18. Subchapter E, Chapter 1603, Occupations Code, is amended by adding Sections 1603.205 and 1603.206 to read as follows:

Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A person holding a dual barber and beauty shop license may own, operate, or manage a shop in which any practice of barbering defined by Section 1601.002(1) or cosmetology defined by Section 1602.002(a) is performed.

(b) An applicant for a dual barber and beauty shop license must submit:

(1) an application on a department-approved form that is verified by the applicant;

(2) proof that the applicant meets the applicable requirements under Chapters 1601 and 1602 for obtaining a barbershop permit and a beauty shop license; and

(3) the required license fee.

(c) The department shall issue a dual barber and beauty shop license to an applicant that:

(1) meets the requirements under this chapter and Chapters 1601 and 1602;

(2) complies with commission rules; and

(3) pays the required fees.

(d) The holder of a dual barber and beauty shop license must comply with this chapter, Chapters 1601 and 1602, and commission rules related to barbering and cosmetology.

Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile shop" means a facility that is readily movable and where barbering, cosmetology, or both are practiced other than at a fixed location.

(b) A barbershop, beauty shop, or specialty shop licensed or permitted under this chapter, Chapter 1601, or Chapter 1602 may be a mobile shop.

(c) The commission may adopt rules to administer this section, including rules providing for:

(1) the licensing or permitting of a mobile shop;

(2) the fees for a mobile shop;

(3) the operation of a mobile shop;

(4) reporting requirements for a mobile shop; and

(5) the inspection of a mobile shop.

SECTION 19. Section 1603.352, Occupations Code, is amended to read as follows:

Sec. 1603.352. STERILIZATION [SANITATION] REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) [1602.002(10) or (11)]:

[~~(4)~~] shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [non-disposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service[; and

[~~(2)~~] may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed].

(b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, [~~or~~] beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other department-approved sterilizer used as required by Subsection (a) must be[; and

[~~(1)~~] registered and listed with the United States [federal] Food and Drug Administration[; and

[~~(2)~~] used in accordance with the manufacturer's instructions].

(c) Each sterilized instrument must be stored in accordance with the manufacturer's instructions.

(d) This section does not apply to:

(1) single-use instruments; or

(2) nonmetal nail files, buffer blocks, pumice stones, nail brushes, or other similar instruments.

(e) The commission may adopt rules to administer this section.

SECTION 20. Subchapter J, Chapter 1603, Occupations Code, is amended by adding Sections 1603.455 and 1603.456 to read as follows:

Sec. 1603.455. EMERGENCY ORDERS. (a) The executive director may issue an emergency order to suspend or revoke a license or permit issued, or to cease the operation of an unsafe facility regulated, by the department under this title if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) The executive director may issue the emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) If an emergency order is issued under this section without a hearing, the executive director, not later than the 10th day after the date the emergency order was issued, shall set the time and place for a hearing conducted by the State Office of Administrative Hearings to affirm, modify, or set aside the emergency order. The executive director shall set the hearing for a date not later than the 30th day after the date the time and place for the hearing are set. The hearing examiner shall affirm the order to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the issuance and appeal of an emergency order under this section, including a rule to allow the commission to affirm, modify, or set aside a decision by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 1603.456. CEASE AND DESIST ORDERS. The executive director may issue a cease and desist order, after notice and opportunity for hearing, if the executive director determines that the order is necessary to prevent a violation of:

(1) this chapter, Chapter 1601, or Chapter 1602; or

(2) a rule adopted by the commission.

SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408, Occupations Code, are repealed.

SECTION 22. (a) The Texas Department of Licensing and Regulation shall issue a hair braiding specialty certificate of registration under Section 1601.259, Occupations Code, as added by this Act, to an applicant qualified under this section who:

(1) applies for a certificate of registration under this section not later than October 1, 2007;

(2) has the experience required by this section; and

(3) pays the application fee.

(b) An applicant for a hair braiding specialty certificate of registration under this section is required to have practiced hair braiding in this state for at least 10 years before the regulation of hair braiding by Chapter 267, Acts of the 75th Legislature, Regular Session, 1997.

(c) This section expires on October 31, 2007.

SECTION 23. Not later than January 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this Act, including rules to administer:

(1) Sections 1601.258 and 1601.259, Occupations Code, as added by this Act, related to eligibility for hair weaving and hair braiding specialty certificates;

(2) Section 1602.354, Occupations Code, as amended by this Act, related to continuing education and renewal requirements;

(3) Section 1603.205, Occupations Code, as added by this Act, related to dual barber and beauty shop licenses.

SECTION 24. The changes in law made by this Act apply only to an application for the issuance or renewal of a license, permit, or certificate that is filed with the Texas Department of Licensing and Regulation on or after the effective date of this Act. An application for the issuance or renewal of a license, permit, or certificate that is filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 25. Notwithstanding Section 1603.205, Occupations Code, as added by this Act, the Texas Department of Licensing and Regulation may not issue a license under that section before May 1, 2008.

SECTION 26. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 2120 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2120**, A bill to be entitled An Act relating to the operation of the unemployment compensation system and eligibility for and computation of an individual's unemployment compensation benefits.

Representative Deshotel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2120**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2120**: Deshotel, chair; Dukes, Kolkhorst, Straus, and Veasey.

**HB 1386 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

**HB 1386**, A bill to be entitled An Act relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.

Representative P. King moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1386**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1386**: P. King, chair; B. Brown, Christian, Garcia, and O'Day.

**HB 2392 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2392**, A bill to be entitled An Act relating to escrow fees required for the construction and leasing of certain health facilities.

Representative Madden moved to concur in the senate amendments to **HB 2392**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1757): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla;

Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Eiland; Haggerty; Kolkhorst; Merritt; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 2392**, A bill to be entitled An Act relating to escrow fees required for the construction and leasing of certain health facilities.

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

SECTION 1. Subchapter D, Chapter 246, Health and Safety Code, is amended by adding Sections 246.0735 and 246.0736 to read as follows:

Sec. 246.0735. PHASE-IN FACILITIES. The commissioner may create requirements for escrow release different from those under Section 246.073 for facilities that obtain a certificate of authority issued under this subchapter before the commencement of facility construction. A facility that meets the commissioner's requirements under this section is not required to satisfy Section 246.073.

Sec. 246.0736. CONTINUING RELEASE OF ESCROW. (a) After the initial release of an entrance fee by an escrow agent for a specific facility, the commissioner shall authorize an escrow agent to continue to release escrowed entrance fees for that facility to the provider without further proof of satisfying the requirements of Section 246.073 if:

(1) the provider provides a monthly report to the department on marketing activities for living units of the facility; and

(2) the provider immediately informs the department of any problems, issues, or irregularities encountered in its marketing activities for the facility.

(b) If the provider fails to meet the requirements of Subsection (a), the commissioner may require the provider to satisfy the requirements of Section 246.073 before the commissioner authorizes the escrow agent to continue releasing escrowed entrance fees to the provider.

(c) The commissioner shall adopt rules to implement this section.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 2641 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2641**, A bill to be entitled An Act relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.

Representative Solomons moved to concur in the senate amendments to **HB 2641**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1758): 139 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Garcia; Howard, C.; Kolkhorst; Latham; Merritt; Moreno; Oliveira; Talton.

### STATEMENT OF VOTE

When Record No. 1758 was taken, I was in the house but away from my desk. I would have voted yes.

Garcia

### Senate Committee Substitute

**CSHB 2641**, A bill to be entitled An Act relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.

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

SECTION 1. Section 116.021, Local Government Code, is amended to read as follows:

Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS. (a) The commissioners court of a county ~~[at its May regular term immediately following each general election for state and county officers]~~ shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, ~~[contract with]~~ one or more banks in the county and enter a contract with each selected

bank for the deposit of the county's public funds. The county shall contract with a bank under this section for a two-year or four-year contract term. On expiration of a contract under this section, the contract may be renewed for two years under terms negotiated by the commissioners court.

(b) If the contract is for a four-year term, the contract shall allow the county ~~[bank]~~ to establish, on the basis of negotiations with the bank ~~[county]~~, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract ~~[if:~~

~~(1) the new financial terms do not increase the prices to the county by more than 10 percent; and~~

~~(2) the county has the option to choose to use the initial variable interest rate option or to change to the new fixed or variable interest rate options proposed by the bank].~~

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and subject to the same conditions as provided by Subsection (b).

(d) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 116.024 or by negotiated bid, one or more depositories in the same manner as at the regular time.

(e) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

(1) competitive bidding; or

(2) another method under that subchapter that the county is qualified to

use.

SECTION 2. Section 116.022(a), Local Government Code, is amended to read as follows:

(a) Once each week for at least 20 days before the date to submit an application under Section 116.023(a) ~~[May regular term of a commissioners court at which the court will make a depository contract]~~, the county judge shall place over the judge's name in a newspaper of general circulation ~~[published]~~ in the county a notice that the commissioners court intends to receive applications from which to select a depository bank ~~[make the contract]~~. A notice shall also be posted at the courthouse door of the county.

SECTION 3. Section 116.023(a), Local Government Code, is amended to read as follows:

(a) A bank in the county that wants to be a county depository must deliver its application to the county judge or a designated representative of the judge on or before a date set by the commissioners court that is no later than the 60th day before the date of the expiration of the existing depository contract ~~[the first day of the term of the commissioners court at which depositories are to be selected]~~.

SECTION 4. Section 116.024(a), Local Government Code, is amended to read as follows:

(a) At the meeting ~~[10 a.m. on the first day of each term]~~ at which banks are to be selected as county depositories, the commissioners court shall:

- (1) enter in the minutes of the court all applications filed with the county judge;
- (2) consider all applications; and
- (3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

SECTION 5. Section 117.021, Local Government Code, is amended to read as follows:

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county ~~[at its May regular term after a general election for state and county officers]~~ shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, ~~[receive an application from]~~ a federally insured bank or banks in the county to be the depository for a special account held by the county clerk and the district clerks. The county shall enter a contract with the selected [a] federally insured bank or banks [under this section] for a two-year or four-year [contract] term. The original term can be renewed once for an additional two-year term. The contract may, on request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that an account earn interest must be made, in writing, to the commissioners court not later than the 30th day before the date the county gives notice under Section 117.022 and shall be entered in the minutes of the court.

(b) If the contract is for a four-year term, the contract shall allow the county ~~[bank]~~ to establish, on the basis of negotiations with the bank ~~[county]~~, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract ~~[if:~~

~~[(1) the new financial terms do not increase the prices to the county by more than 10 percent; and~~

~~[(2) the county has the option to choose to use the initial variable interest rate option or to change to the new fixed or variable interest rate options proposed by the bank].~~

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and under the same conditions as provided by Subsection (b).

(d) A bank must file its application on or before a date set by the commissioners court [10 a.m. on the first day of the term]. The application must be accompanied by a certified check or cashier's check for at least one-half of one percent of the average daily balance of the registry funds held by the county clerk and the district clerk during the preceding calendar year, as determined by the county clerk and the district clerk on or before the 10th day before the date the application is required to be filed. A certified check or cashier's check that complies with this section is a good-faith guarantee on the part of the applicant that if its application is accepted it will execute the bond required under this subchapter. If the bank selected as depository does not provide the bond, the county shall retain the amount of the check as liquidated damages and the county shall select another depository as provided by this subchapter.

(e) ~~[(d)]~~ If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 117.023 or by negotiated bid, one or more depositories in the same manner as at the regular term.

(f) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

(1) competitive bidding; or

(2) another method under that subchapter that the county is qualified to

use.

SECTION 6. Section 117.023(a), Local Government Code, is amended to read as follows:

(a) At the meeting ~~[10 a.m. on the first day of each term]~~ at which banks are to be selected ~~[the commissioners court is required to receive applications]~~ to serve as the depository for registry funds held by the county clerk and the district clerk, the commissioners court shall enter the applications in the minutes of the court and select a depository.

SECTION 7. Section 117.025(b), Local Government Code, is amended to read as follows:

(b) A designation under Subsection (a) is effective until the designation and qualification of a successor depository or until April 15 following the expiration of the contract ~~[term in which a depository must be selected under this subchapter]~~, whichever is earlier. If the term of a depository ends before the designation and qualification of a successor, the depository shall pay to the clerk in whose name the account is carried all registry funds due or on deposit.

SECTION 8. To the extent of any conflict, a change in law made by this Act to Chapter 116 or 117, Local Government Code, controls over a change made by H.B. No. 892, Acts of the 80th Legislature, Regular Session, 2007, regardless of the relative dates of enactment.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(Kolkhorst now present)

### **HB 2738 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2738**, A bill to be entitled An Act relating to liens on real property.

Representative Solomons moved to concur in the senate amendments to **HB 2738**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1759): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Merritt; Moreno; Oliveira; Quintanilla; Raymond.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

On page 2, SECTION 3, Sec. 51.0074, line 23 strike "QUALIFICATIONS" and insert "DUTIES"

On page 3, SECTION 3, Sec. 51.0074, line 3 after "(2)" insert "held to the obligations of"

### **HB 2859 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2859**, A bill to be entitled An Act relating to a memorial sign program for victims of certain vehicle accidents.

Representative B. Brown moved to concur in the senate amendments to **HB 2859**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1760):  
144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee;

Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Bailey; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 2859**, A bill to be entitled An Act relating to a memorial sign program for victims of certain vehicle accidents.

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

SECTION 1. Subchapter K, Chapter 201, Transportation Code, is amended by adding Section 201.909 to read as follows:

Sec. 201.909. MEMORIAL SIGN PROGRAM. (a) In this section, "victim" means a person killed in a highway accident involving alcohol or a controlled substance, excluding an operator who was under the influence of alcohol or a controlled substance.

(b) The commission by rule shall establish and administer a memorial sign program to publicly memorialize the victims of alcohol or controlled substance-related vehicle accidents.

(c) A sign designed and posted under this section shall include:

(1) the phrase "Please Don't Drink and Drive";

(2) the phrase "In Memory Of" and the name of the victim in accordance with the commission rule in whose memory the sign is placed; and

(3) the date of the accident that resulted in the victim's death.

(d) A person may request that a sign be posted under this section by:

(1) making an application to the department on a form prescribed by the department; and

(2) submitting a fee to the department in an amount determined by the department to help defray the costs of posting the memorial sign.

(e) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for one year. At the end of the one year period the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(f) A sign posted under this section that is damaged shall be removed by the department. Except as provided in Subsection (g), the department may post a new sign if it has been less than one year from the posting of the original sign and a person:

- (1) submits a written request to the department to replace the sign; and
- (2) submits a replacement fee in the amount provided under Subsection

(d)(2).

(g) During the one year posting period the department shall replace a sign posted under this section that is damaged because of the department's negligence.

(h) The commission shall adopt rules to implement this section.

(i) This section does not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules. A privately funded memorial may remain indefinitely as long as it conforms to state law and department rules.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 3441 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3441**, A bill to be entitled An Act relating to the erection and maintenance of tourist-oriented directional signs on eligible highways.

Representative Phillips moved to concur in the senate amendments to **HB 3441**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1761): 143 Yeas, 0 Nays, 1 Present, not voting.

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

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Harless; Moreno; Mowery; Oliveira.

### Senate Committee Substitute

**CSHB 3441**, A bill to be entitled An Act relating to the eligibility of a specific information logo sign along a highway.

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

SECTION 1. Sections 391.001(2), (9), and (12), Transportation Code, are amended to read as follows:

(2) "Eligible highway" means a highway along which an information logo sign may be located as determined by the commission under Section 391.092(d) ~~that:~~

~~[(A) is located outside an urbanized area with a population of 50,000 or more and qualifies for a maximum speed limit of 65 miles per hour under 23 U.S.C. Section 154 or, if that law is repealed, qualified for a maximum speed limit of 65 miles per hour on the day before the effective date of the repeal; or~~

~~[(B) is a controlled access highway located inside an urbanized area with a population of 50,000 or more].~~

(9) "Major shopping area guide sign" means a rectangular guide sign panel imprinted with the name of a major shopping area eligible to have its name displayed as determined by the commission under Section 391.0935 ~~[, as it is commonly known to the public,]~~ and containing directional information to the major shopping area.

(12) "Specific information logo sign" means a rectangular sign imprinted with the words "GAS," "FOOD," "LODGING," ~~[or]~~ "CAMPING," or "24 HOUR Rx," or with a combination of those words, and the specific brand names of commercial establishments offering those services.

SECTION 2. Section 391.092, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission shall adopt rules, in accordance with applicable federal law, regulations, and guidelines, for determining eligible highways along which specific information logo signs, major shopping area guide signs, and tourist-oriented directional signs may be located. If permitted by federal law, regulations, or guidelines, the commission may establish different highway eligibility criteria for each type of sign.

(e) In this section, "tourist-oriented directional signs" has the meaning assigned by Section 391.099.

SECTION 3. Sections 391.0935(a), (b), (d), and (f), Transportation Code, are amended to read as follows:

(a) Unless the commission determines there is a conflict with federal law, the commission shall establish a program that allows the erection and maintenance of major shopping area guide signs at appropriate locations along eligible ~~urban~~ highways.

(b) The commission shall adopt rules regulating the content, composition, placement, erection, and maintenance of major shopping area guide signs and supports within eligible ~~urban~~ highway rights-of-way. The commission by rule shall establish criteria for determining if a geographic area contains a sufficient concentration of retail establishments to be considered a major shopping area. A major shopping area is entitled to have its name displayed on major shopping area guide signs if it meets the criteria established by the commission and is located not farther than three miles from an interchange on an eligible ~~urban~~ highway.

(d) Major shopping area guide signs may be included as part of exit direction signs, advance guide signs, and supplemental guide signs and must include guide signs for both directions of traffic on an eligible ~~urban~~ highway.

(f) The commission may contract with an individual, firm, group, or association in this state to erect and maintain major shopping area guide signs at appropriate locations along an eligible ~~urban~~ highway.

SECTION 4. Sections 391.001(3) and (8) and 391.099(a)(2), Transportation Code, are repealed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 1196 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1196**, A bill to be entitled An Act relating to restrictions on the use of certain public subsidies.

Representative Kolkhorst moved to concur in the senate amendments to **HB 1196**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1762): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg;

Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Chisum; Coleman; Flores; Krusee; McClendon; Moreno; Noriega; Oliveira; Raymond; Rodriguez.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1196** (house engrossment) in proposed Section 2264.051, Government Code (page 2, lines 18 and 19), between "will not" and "employ", by inserting "knowingly".

### **HB 730 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 730**, A bill to be entitled An Act relating to the notice of a municipality's or county's intention to issue certificates of obligation.

Representative Kolkhorst moved to concur in the senate amendments to **HB 730**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1763): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hagerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla;

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Cook, R.; Dunnam; Eiland; Frost; Hernandez; Lucio; Moreno; Oliveira; Riddle; Rodriguez.

### Senate Committee Substitute

**CSHB 730**, A bill to be entitled An Act relating to the notice of a municipality's or county's intention to issue certificates of obligation.

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

SECTION 1. Section 271.049(a), Local Government Code, is amended to read as follows:

(a) Regardless of the sources of payment of certificates, certificates may not be issued unless the issuer publishes notice of its intention to issue the certificates. The notice must be published once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 30th [~~14th~~] day before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 2621 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2621**, A bill to be entitled An Act relating to the preservation, maintenance, and restoration of certain state buildings by the Texas Historical Commission.

Representative F. Brown moved to concur in the senate amendments to **HB 2621**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1764): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles;

Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Anchia; Cook, R.; Frost; Goolsby; Harless; McReynolds; Moreno; Oliveira.

### STATEMENTS OF VOTE

When Record No. 1764 was taken, I was in the house but away from my desk. I would have voted yes.

Anchia

When Record No. 1764 was taken, I was in the house but away from my desk. I would have voted yes.

Harless

### Senate Committee Substitute

**CSHB 2621**, A bill to be entitled An Act relating to the preservation, maintenance, and restoration of certain state buildings by the Texas Historical Commission and to the transfer of the Texas Building and Procurement Commission's Governor's Mansion duties to the State Preservation Board.

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

SECTION 1. Section 442.0072(d), Government Code, is amended to read as follows:

(d) The commission shall preserve, maintain in a state of suitable repair, restore, and develop the church and the house, their contents, and their grounds, in the manner determined by the commission, for the beautification and cultural enhancement of the properties as a significant Texas historical site and in a manner consistent with development of the Capitol Complex.

SECTION 2. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.0073 to read as follows:

Sec. 442-0073. PRESERVATION AND MAINTENANCE OF CERTAIN STATE BUILDINGS. (a) The commission shall preserve, maintain, and restore Luther Hall, the Elrose Building, and the Christianson-Leberman Building, their contents, and their grounds.

(b) For purposes of this section, Luther Hall and the Elrose Building are located on 16th Street between Colorado Street and North Congress Avenue in Austin and the Christianson-Leberman Building is located at 1304 Colorado Street in Austin.

SECTION 3. Section 2165.007(b), Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

(1) a facility owned or operated by an institution of higher education;  
(2) military facilities;  
(3) facilities owned or operated by the Texas Department of Criminal Justice;

(4) facilities owned or operated by the Texas Youth Commission;  
(5) facilities owned or operated by the Texas Department of Transportation;

(6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, ~~and~~ any museum located on the Capitol grounds, the Governor's Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency; or

(9) a facility located within or on state park property.

SECTION 4. On September 1, 2007:

(1) all powers and duties of the Texas Building and Procurement Commission related to the Governor's Mansion and its grounds are transferred to the State Preservation Board.

(2) all records of the Texas Building and Procurement Commission related to the Governor's Mansion and its grounds are transferred to the State Preservation Board.

(3) all contracts of the Texas Building and Procurement Commission pertaining specifically to the Governor's Mansion and its grounds are transferred to the State Preservation Board; and

(4) all appropriations to the Texas Building and Procurement Commission specifically for purposes pertaining to the Governor's Mansion and its grounds, and all appropriations to the Texas Building and Procurement Commission budgeted by the agency for expenditures pertaining to the Governor's Mansion and its grounds, are transferred to the State Preservation Board.

SECTION 6. This Act takes effect September 1, 2007.

**HB 2762 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2762**, A bill to be entitled An Act relating to adoption of requirements regarding the replacement of existing life insurance policies and certain annuities; imposing penalties.

Representative Eiland moved to concur in the senate amendments to **HB 2762**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1765): 143 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Burnam; Driver; Moreno; Oliveira.

### **Senate Committee Substitute**

**CSHB 2762**, A bill to be entitled An Act relating to the adoption of requirements regarding the replacement of existing life insurance policies and certain annuities; imposing penalties.

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

SECTION 1. Subtitle A, Title 7, Insurance Code, is amended by adding Chapter 1114 to read as follows:

CHAPTER 1114. REPLACEMENT OF CERTAIN LIFE INSURANCE  
POLICIES AND ANNUITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1114.001. PURPOSE. The purpose of this chapter is to:

(1) regulate the activities of insurers and agents with respect to the replacement of existing life insurance and annuities;

(2) protect the interests of purchasers of life insurance or annuities by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions;

(3) ensure that purchasers receive information with which a decision in the purchaser's best interest may be made;

(4) reduce the opportunity for misrepresentation and incomplete disclosure; and

(5) establish penalties for failure to comply with the requirements adopted under this chapter.

Sec. 1114.002. GENERAL DEFINITIONS. In this chapter:

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

(2) "Direct-response solicitation" means a solicitation made:

(A) by a sponsoring or endorsing entity or individually; and

(B) solely through mails, telephone, the Internet, or other mass communication media.

(3) "Existing insurer" means the insurer, the policy or contract of which is or will be changed or affected by a replacement.

(4) "Existing policy or contract" means an individual life insurance policy or annuity contract that is in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

(5) "Financed purchase" means the purchase of a new policy that involves the actual or intended use of funds to pay all or part of any premium due on the new policy obtained by:

(A) the withdrawal or surrender of an existing policy; or

(B) borrowing from values of an existing policy.

(6) "Illustration" means a presentation or depiction that includes nonguaranteed elements of a life insurance policy over a period of years.

(7) "Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933 (15 U.S.C. Section 77a et seq.).

(8) "Replacement" means a transaction under which a new policy or contract is to be purchased, and for which it is known or should be known to the proposing agent or proposing insurer that, by reason of the transaction, an existing policy or contract has been or is to be:

(A) lapsed, forfeited, surrendered or partially surrendered, assigned to a replacing insurer, or otherwise terminated;

(B) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(C) amended so as to effect a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(D) reissued with any reduction in cash value; or

(E) used in a financed purchase.

(9) "Replacing insurer" means the insurer that issues or proposes to issue a new policy or contract that:

(A) replaces an existing policy or contract; or

(B) is a financed purchase.

(10) "Sales material" means a sales illustration and any other written, printed, or electronically presented information:

(A) created or completed or provided by the insurer or agent; and

(B) used in the presentation to the policy or contract owner relating to the policy or contract purchased.

Sec. 1114.003. DEFINITION OF POLICY SUMMARY. (a) For purposes of this chapter, "policy summary" has the meaning assigned by this section.

(b) For a policy or contract other than a universal life insurance policy, "policy summary" means a written statement regarding the policy or contract that at minimum contains, to the extent applicable, the following information:

(1) the current death benefit;

(2) the annual contract premium;

(3) the current cash surrender value;

(4) the current dividend;

(5) the application of the current dividend; and

(6) the amount of any outstanding loan.

(c) For a universal life insurance policy, "policy summary" means a written statement that contains, at minimum, the following information:

(1) the beginning and ending date of the current reporting period;

(2) the policy value at the end of the previous reporting period and at the end of the current reporting period;

(3) the total amounts that have been credited or debited to the policy value during the current reporting period, identifying each by type, including interest, mortality, expense, and riders;

(4) the current death benefit at the end of the current reporting period on each life covered by the policy;

(5) the net cash surrender value of the policy as of the end of the current reporting period; and

(6) the amount of any outstanding loans as of the end of the current reporting period.

Sec. 1114.004. APPLICABILITY; EXEMPTIONS. (a) Except as otherwise specifically provided by this chapter, this chapter does not apply to transactions involving:

(1) credit life insurance;

(2) group life insurance or group annuities for which there is no direct solicitation of individuals by an agent;

(3) group life insurance and annuities used to fund prepaid funeral benefits contracts, as defined by Chapter 154, Finance Code;

(4) an application to:

(A) exercise a contractual change or a conversion privilege made to the insurer that issued the existing policy or contract;

(B) replace an existing policy or contract by the insurer that issued the existing policy or contract under a program filed with and approved by the commissioner; or

(C) exercise a term conversion privilege among corporate affiliates;

(5) life insurance proposed to replace life insurance under a binding or conditional receipt issued by the same insurer;

(6) a policy or contract used to fund:

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

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

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

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

(7) new coverage provided under a life insurance policy or contract if the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

(8) an existing life insurance policy that is a nonconvertible term life insurance policy scheduled to expire in five years or less and that cannot be renewed;

(9) immediate annuities purchased with proceeds from an existing contract; or

(10) structured settlements.

(b) Notwithstanding Subsection (a)(6), this chapter applies to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, if:

(1) the insurer has been notified that plan participants may choose from among two or more insurers; and

(2) there is a direct solicitation of an individual employee by an insurance agent for the purchase of a contract or policy.

(c) Group life insurance or group annuity certificates marketed through direct response solicitation are subject to Section 1114.055.

(d) Notwithstanding Subsection (a)(9), immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter.

(e) For the purpose of Subsections (a), (b), and (c), "direct solicitation" does not include a group meeting held by an insurance agent solely for the purpose of:

(1) educating or enrolling individuals; or

(2) if initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual.

Sec. 1114.005. FINANCED PURCHASE. (a) If a withdrawal, surrender, or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy that is owned by the same policyholder and is issued by the same insurer not earlier than four months before the effective date of the new policy or 13 months after the effective date of the new policy, it is deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values.

(b) Subsection (a) applies only to regulatory review of an individual transaction.

(c) The prima facie standard under Subsection (a) is not intended to increase or decrease the monitoring obligations contained in Section 1114.052(g).

Sec. 1114.006. CONSUMER NOTICE DOCUMENTS. (a) The commissioner by rule shall adopt or approve model documents to be used for consumer notices under this chapter.

(b) The department may develop model documents under this section, or the commissioner may approve model documents developed by insurers or published by national organizations recognized by the commissioner.

Sec. 1114.007. RULES. The commissioner may adopt reasonable rules in the manner prescribed by Subchapter A, Chapter 36, to accomplish and enforce the purpose of this chapter.

[Sections 1114.008-1114.050 reserved for expansion]

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

Sec. 1114.051. DUTIES OF AGENT; NOTICE. (a) An agent who initiates an application for a life insurance policy or annuity contract shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the agent as to whether the applicant has existing policies or contracts.

(b) If the applicant states that the applicant does not have existing policies or contracts, the agent's duties, after compliance with Subsection (a), with respect to replacement are complete.

(c) If the applicant states that the applicant does have existing policies or contracts, the agent shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements as provided by Subsection (d).

(d) Except as provided by Subsection (e), the notice required by this section must be given in a form adopted or approved by the commissioner. The notice shall be signed by both the applicant and the agent attesting that the notice has been read aloud by the agent or that the applicant did not wish the notice to be read aloud, in which case the agent is not required to read the notice aloud. The notice must be left with the applicant unless it is presented to the applicant by electronic means and signed electronically, in which case the insurer shall mail the applicant a copy of the notice not later than the third business day after the date the application is received by the insurer. The notice must list all life insurance policies or annuities proposed to be replaced, properly identified by the name of the insurer, the name of the insured or annuitant, and the policy or contract number if available, and include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing

for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, must be listed.

(e) Commissioner approval of a notice is not required if a notice adopted or approved by the commissioner is used and amendments to that notice are limited to the omission of references not applicable to the product being sold or replaced.

(f) In connection with a replacement transaction, the agent shall leave with the applicant, at the time an application for a new policy or contract is completed, the original of all sales material or a copy of that material. Electronically presented sales material must be provided to the policy or contract owner in printed form not later than the date that the policy or contract is delivered.

(g) Except as provided by Section 1114.053(g), in connection with a replacement transaction, the agent shall submit to the insurer to which an application for a policy or contract is presented:

(1) a copy of each document required by this section;

(2) a statement identifying any preprinted or electronically presented insurer-approved sales materials used; and

(3) copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

Sec. 1114.052. DUTIES OF INSURERS THAT USE AGENTS. (a) An insurer that uses an agent shall comply with this section.

(b) Each insurer shall maintain a system of supervision and control to ensure compliance with the requirements of this chapter. Under the system, the insurer must, at minimum:

(1) inform its agents of the requirements of this chapter and incorporate the requirements of this chapter into all relevant agent training manuals prepared by the insurer;

(2) provide each agent a written statement of the insurer's position with respect to the acceptability of replacements and provide guidance to the agent as to the appropriateness of these transactions;

(3) review the appropriateness of each replacement transaction that the agent does not indicate is in accord with Subdivision (2);

(4) implement procedures to confirm that the requirements of this chapter have been met; and

(5) implement procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer but that have not been reported as such by the applicant or agent.

(c) Compliance with Subsection (b)(5) may include systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.

(d) Each insurer must have the capacity to monitor each agent's life insurance policy and annuity contract replacements for that insurer. The insurer shall maintain records regarding the monitoring and shall produce and make the records available to the department on request. The capacity to monitor under this subsection must include the ability to produce records for:

(1) each agent's life insurance replacements, including financed purchases, as a percentage of the agent's total annual sales for life insurance;

(2) the number of lapses of policies by the agent as a percentage of the agent's total annual sales for life insurance;

(3) each agent's annuity contract replacements as a percentage of the agent's total annual annuity contract sales;

(4) the number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system as required by Subsection (b)(5); and

(5) replacements, indexed by replacing agent and existing insurer.

(e) Each insurer shall require, with or as a part of each application for life insurance or an annuity, a signed statement by both the applicant and the agent as to whether the applicant has existing policies or contracts.

(f) Each insurer shall require, with each application for life insurance or an annuity that indicates an existing policy or contract, a completed notice regarding replacements.

(g) If the applicant has existing policies or contracts, each insurer must be able to produce, for at least five years after the date of termination or expiration of the proposed policy or contract, copies of any sales material required by Section 1114.051(g), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the agent's and applicant's signed statements with respect to financing and replacement.

(h) The insurer shall ascertain that the sales material and illustrations required by Section 1114.051(g) meet the requirements of this chapter and are complete and accurate for the proposed policy or contract.

(i) If an application does not meet the requirements of this chapter, the insurer shall notify the agent and applicant and fulfill the outstanding requirements.

(j) The insurer shall maintain records required by this section in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

Sec. 1114.053. DUTIES OF REPLACING INSURERS THAT USE AGENTS. (a) If a transaction under this chapter involves a replacement, the replacing insurer shall comply with this section.

(b) The replacing insurer shall verify that the required forms are received and are in compliance with this chapter.

(c) The replacing insurer shall:

(1) notify any existing insurer that may be affected by the proposed replacement not later than the fifth business day after:

(A) the date of receipt of a completed application indicating replacement; or

(B) the date that replacement is identified if it is not indicated on the application; and

(2) mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract to the existing insurer not later than the fifth business day after the date of a request from the existing insurer.

(d) The replacing insurer must be able to produce copies of the notification regarding replacement required by Section 1114.051(d), indexed by agent, until the later of:

(1) the fifth anniversary of the date of the notification; or

(2) the date of the replacing insurer's next regular examination by the insurance regulatory authority of the insurer's state of domicile.

(e) The replacing insurer shall provide to the policy or contract owner notice of the owner's right to return the policy or contract within 30 days of the delivery of the policy or contract and to receive an unconditional full refund of all premiums or considerations paid on the policy or contract, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under the policy or contract. The notice may be combined with other notices required under this chapter in accordance with rules of the commissioner.

(f) In transactions in which the replacing insurer and the existing insurer are the same or are subsidiaries or affiliates under common ownership or control, the replacing insurer shall allow credit for the period that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount that the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(g) If an insurer prohibits the use of sales material other than that approved by the insurer, as an alternative to the requirements under Section 1114.051(g), the insurer shall:

(1) require with each application a statement signed by the agent that:

(A) represents that the agent used only insurer-approved sales material; and

(B) states that copies of all sales material were left with the applicant in accordance with Section 1114.051(f);

(2) not later than the 10th day after the date of issuance of the policy or contract:

(A) notify the applicant by sending a letter, or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the agent has represented that copies of all sales material have been left with the applicant in accordance with Section 1114.051(f);

(B) provide the applicant with a toll-free telephone number to contact the insurer's personnel involved in the compliance function if copies of all sales material have not been left with the applicant in accordance with Section 1114.051(f); and

(C) stress the importance of retaining copies of the sales material for future reference; and

(3) be able to produce a copy of the letter or other verification in the policy file until the fifth anniversary of the date of termination or expiration of the policy or contract.

Sec. 1114.054. DUTIES OF EXISTING INSURER. (a) If a transaction involves a replacement, the existing insurer shall comply with this section.

(b) The existing insurer shall retain and be able to produce all replacement notifications received, indexed by the replacing insurer, until the later of:

(1) the fifth anniversary of the date of receipt of the notification; or

(2) the date of conclusion of the next regular examination conducted by the insurance regulatory authority of the existing insurer's state of domicile.

(c) The existing insurer shall send a letter to the policy or contract owner regarding the owner's right to receive information regarding the existing policy or contract values. The letter must include, if available, an in force illustration or, if an in force illustration cannot be produced not later than the fifth business day after the date of receipt of a notice that an existing policy or contract is being replaced, a policy summary. The information must be provided not later than the fifth business day after the date of receipt of the request from the policy or contract owner.

(d) On receipt of a request to borrow, surrender, or withdraw any policy values, the existing insurer shall send a notice advising the policy owner that the release of policy values may affect the guaranteed elements, nonguaranteed elements, face amount, or surrender value of the policy from which the values are released. The notice must be sent separately from the payment if the payment is sent to any person other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

Sec. 1114.055. DUTIES OF INSURERS REGARDING DIRECT RESPONSE SOLICITATIONS. (a) In the case of an application initiated as a result of a direct response solicitation, the insurer shall require submission of a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue, or change an existing policy or contract. The statement may be included with, or submitted as part of, each completed application for a policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice, in a form adopted or approved by the commissioner, regarding replacement.

(b) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

(1) provide to the applicant or prospective applicant, with the policy or contract, a notice adopted or approved by the commissioner; and

(2) comply with the requirements of:

(A) Section 1114.053(c), if the applicant furnishes the names of the existing insurers; and

(B) Sections 1114.053(d), (e), and (f).

(c) In a situation described by Subsection (b)(1), the insurer may use a notice that deletes references to the agent, including the agent's signature, and references not applicable to the product being sold or replaced, without having to obtain prior approval of the notice from the commissioner. The insurer's obligation to obtain the applicant's signature is satisfied if the insurer can demonstrate that the insurer has made a diligent effort to secure a signed copy of the notice. The requirement to make a diligent effort is deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice.

Sec. 1114.056. REGISTERED CONTRACTS. A registered contract is exempt from the requirements of Sections 1114.053(c) and 1114.054(c) with respect to the provision of illustrations or policy summaries, but must provide instead premium or contract contribution amounts and identification of the appropriate prospectus or offering circular.

[Sections 1114.057-1114.100 reserved for expansion]

#### SUBCHAPTER C. ENFORCEMENT

Sec. 1114.101. UNFAIR METHOD OF COMPETITION; SANCTIONS AND PENALTIES. (a) A failure by an insurer or agent to comply with this chapter constitutes a violation of Chapter 541 and is subject to sanctions and penalties as provided by that chapter. For purposes of this section, examples of violations include:

- (1) deceptive or misleading information set forth in any sales material;
- (2) failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;
- (3) intentionally recording an answer incorrectly;
- (4) advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- (5) advising a policy or contract owner to contact the insurer directly in such a way as to attempt to obscure the identity of the replacing agent or insurer.

(b) A policy or contract owner has the right to replace an existing life insurance policy or annuity contract after indicating in or as a part of applications for new coverage that replacement is not the intention. However, patterns of that action by policy or contract owners of the same agent shall be deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with the identified transactions, and those patterns of action shall be deemed prima facie evidence of the agent's intent to violate this chapter.

(c) If it is determined that the requirements of this chapter have not been met, the replacing insurer shall provide to the policy owner:

- (1) an in force illustration or, if an in force illustration is not available, a policy summary for the replacement policy or an available disclosure document for the replacement contract; and
- (2) the appropriate notice regarding replacements.

Sec. 1114.102. ADDITIONAL SANCTIONS. (a) In addition to sanctions and penalties under Chapter 541 as provided by Section 1114.101, an insurer or agent that violates this chapter is subject to sanctions as provided by Chapter 82, which may include:

(1) the revocation or suspension of the agent's license or the insurer's certificate of authority;

(2) administrative penalties under Chapter 84; and

(3) forfeiture of any commissions or other compensation paid to an agent as a result of the transaction in connection with which the violations occurred.

(b) In addition, if the commissioner has determined that the violations of this chapter were material to the sale, the insurer may be required to:

(1) make restitution in the manner provided by Section 82.053;

(2) restore policy or contract values; and

(3) pay interest at the rate set by Section 84.050 on the amount refunded in cash.

SECTION 2. The commissioner of insurance shall adopt rules and adopt or approve model documents as necessary to implement Chapter 1114, Insurance Code, as added by this Act, not later than December 1, 2007.

SECTION 3. This Act applies only to replacement of an insurance policy or annuity contract on or after January 1, 2008. Replacement of a policy or annuity contract before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

### **HB 3101 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3101**, A bill to be entitled An Act relating to a residential tenant's rights and remedies.

Representative Anchia moved to concur in the senate amendments to **HB 3101**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1766): 124 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, S.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente;

Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Brown, B.; Christian; Crabb; Flynn; Harper-Brown; Kuempel; Macias; Merritt; O'Day; Phillips; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent — Darby; Davis, Y.; Flores; Garcia; Hamilton; Hancock; King, P.; McClendon; Moreno; Oliveira; Orr.

### STATEMENTS OF VOTE

When Record No. 1766 was taken, I was in the house but away from my desk. I would have voted no.

Darby

I was shown voting yes on Record No. 1766. I intended to vote no.

Geren

I was shown voting yes on Record No. 1766. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 1766. I intended to vote no.

Talton

I was shown voting yes on Record No. 1766. I intended to vote no.

Truitt

### Senate Committee Substitute

**CSHB 3101**, A bill to be entitled An Act relating to a residential tenant's rights and remedies.

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

SECTION 1. Section 92.0081, Property Code, is amended by amending Subsections (b), (d), and (h) and adding Subsections (e-1), (k), and (l) to read as follows:

(b) A landlord may not intentionally prevent a tenant from entering the leased premises except by judicial process unless the exclusion results from:

- (1) bona fide repairs, construction, or an emergency;
- (2) removing the contents of premises abandoned by a tenant; or
- (3) changing the door locks on the door to the tenant's individual unit

of a tenant who is delinquent in paying at least part of the rent.

(d) A landlord may not intentionally prevent a tenant from entering the leased premises under Subsection (b)(3) unless:

(1) the landlord's right to change the locks because of a tenant's failure to timely pay rent is placed in the lease;

- (2) the tenant is delinquent in paying all or part of the rent; and

(3) ~~(2)~~ the landlord has locally mailed not later than the fifth calendar day before the date on which the door locks are changed or hand-delivered to the tenant or posted on the inside of the main entry door of the tenant's dwelling not later than the third calendar day before the date on which the door locks are changed a written notice stating:

(A) the earliest date that the landlord proposes to change the door locks;

(B) the amount of rent the tenant must pay to prevent changing of the door locks; ~~and~~

(C) the name and street address of the individual to whom, or the location of the on-site management office at which, the delinquent rent may be discussed or paid during the landlord's normal business hours; and

(D) in underlined or bold print, the tenant's right to receive a key to the new lock at any hour, regardless of whether the tenant pays the delinquent rent.

(e-1) A landlord who changes the locks or otherwise prevents a tenant from entering the tenant's individual rental unit may not change the locks or otherwise prevent a tenant from entering a common area of residential rental property.

(h) If a landlord violates this section, the tenant may:

(1) either recover possession of the premises or terminate the lease; and

(2) recover from the landlord a civil penalty of one month's rent plus \$1,000 ~~[\$500]~~, actual damages, court costs, and reasonable attorney's fees in an action to recover property damages, actual expenses, or civil penalties, less any delinquent rent or other sums for which the tenant is liable to the landlord.

(k) A landlord may not change the locks on the door of a tenant's dwelling under Subsection (b)(3):

(1) when the tenant or any other legal occupant is in the dwelling; or

(2) more than once during a rental payment period.

(l) This section does not affect the ability of a landlord to pursue other available remedies, including the remedies provided by Chapter 24.

SECTION 2. Section 92.0131, Property Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) As a precondition for allowing a tenant to park in a specific parking space or a common parking area that the landlord has made available for tenant use, the landlord may require a tenant to provide only the make, model, color, year, license number, and state of registration of the vehicle to be parked.

SECTION 3. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.019 to read as follows:

Sec. 92.019. LATE PAYMENT OF RENT; FEES. (a) A landlord may not charge a tenant a late fee for failing to pay rent unless:

(1) notice of the fee is included in a written lease;

(2) the fee is a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent; and

(3) the rent remains unpaid after the second day after the date the rent was originally due.

(b) A late fee under this section may include an initial fee and a daily fee for each day the rent continues to remain unpaid.

(c) A landlord who violates this section is liable to the tenant for an amount equal to the sum of \$100, three times the amount of the late fee charged in violation of this section, and the tenant's reasonable attorney's fees.

(d) A provision of a lease that purports to waive a right or exempt a party from a liability or duty under this section is void.

(e) This section relates only to a fee, charge, or other sum of money required to be paid under the lease if rent is not paid as provided by Subsection (a)(3), and does not affect the landlord's right to terminate the lease or take other action permitted by the lease or other law. Payment of the fee, charge, or other sum of money by a tenant does not waive the right or remedies provided by this section.

SECTION 4. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.020 to read as follows:

Sec. 92.020. EMERGENCY PHONE NUMBER. (a) A landlord that has an on-site management or superintendent's office for a residential rental property must provide to a tenant a telephone number that will be answered 24 hours a day for the purpose of reporting emergencies related to a condition of the leased premises that materially affects the physical health or safety of an ordinary tenant.

(b) The landlord must post the phone number required by Subsection (a) prominently outside the management or superintendent's office.

(c) This section does not apply to or affect a local ordinance governing a landlord's obligation to provide a 24-hour emergency contact number to a tenant that is adopted before January 1, 2008, if the ordinance conforms with or is amended to conform with this section.

(d) A landlord to whom Subsection (a) does not apply must provide to a tenant a telephone number for the purpose of reporting emergencies described by that subsection.

SECTION 5. Section 92.056, Property Code, is amended by adding Subsection (g) to read as follows:

(g) A lease must contain language in underlined or bold print that informs the tenant of the remedies available under this section and Section 92.0561.

SECTION 6. The heading to Subchapter I, Chapter 92, Property Code, is amended to read as follows:

#### SUBCHAPTER I. RENTAL APPLICATION [DEPOSITS]

SECTION 7. Section 92.351, Property Code, is amended by adding Subdivisions (1-a) and (5-a) to read as follows:

(1-a) "Application fee" means a nonrefundable sum of money that is given to the landlord to offset the costs of screening an applicant for acceptance as a tenant.

(5-a) "Rental application" means a written request made by an applicant to a landlord to lease premises from the landlord.

SECTION 8. Subchapter I, Chapter 92, Property Code, is amended by adding Section 92.3515 to read as follows:

Sec. 92.3515. NOTICE OF ELIGIBILITY REQUIREMENTS. (a) At the time an applicant is provided with a rental application, the landlord shall make available to the applicant printed notice of the landlord's tenant selection criteria and the grounds for which the rental application may be denied, including the applicant's:

(1) criminal history;  
(2) previous rental history;  
(3) current income;  
(4) credit history; or  
(5) failure to provide accurate or complete information on the application form.

(b) If the landlord makes the notice available under Subsection (a), the applicant shall sign an acknowledgment indicating the notice was made available. If the acknowledgment is not signed, there is a rebuttable presumption that the notice was not made available to the applicant.

(c) The acknowledgment required by Subsection (b) must include a statement substantively equivalent to the following: "Signing this acknowledgment indicates that you have had the opportunity to review the landlord's tenant selection criteria. The tenant selection criteria may include factors such as criminal history, credit history, current income, and rental history. If you do not meet the selection criteria, or if you provide inaccurate or incomplete information, your application may be rejected and your application fee will not be refunded."

(d) The acknowledgment may be part of the rental application if the notice is underlined or in bold print.

(e) If the landlord rejects an applicant and the landlord has not made the notice required by Subsection (a) available, the landlord shall return the application fee and any application deposit.

(f) If an applicant requests a landlord to mail a refund of the applicant's application fee to the applicant, the landlord shall mail the refund check to the applicant at the address furnished by the applicant.

SECTION 9. Section 92.354, Property Code, is amended to read as follows:

Sec. 92.354. LIABILITY OF LANDLORD. A landlord who in bad faith fails to refund an application fee or deposit in violation of this subchapter is liable for an amount equal to the sum of \$100, three times the amount wrongfully retained [of the application deposit], and the applicant's reasonable attorney's fees [in a suit to recover the deposit].

SECTION 10. Subchapter I, Chapter 92, Property Code, is amended by adding Section 92.355 to read as follows:

Sec. 92.355. WAIVER. A provision of a rental application that purports to waive a right or exempt a party from a liability or duty under this subchapter is void.

SECTION 11. This Act applies only to a lease agreement or a renewal of a lease agreement entered into, or a rental application received by an applicant, on or after the effective date of this Act. A lease agreement or a renewal of a lease agreement entered into, or a rental application received by an applicant, before

the effective date of this Act is covered by the law in effect at the time the lease agreement or renewal of the lease agreement was entered into or the rental application was received, and the former law is continued in effect for that purpose.

SECTION 12. This Act takes effect January 1, 2008.

(Taylor in the chair)

**HB 3184 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

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

**HB 3184**, A bill to be entitled An Act relating to educating parents about the benefits of immunizing certain children against influenza.

Representative Coleman moved to concur in the senate amendments to **HB 3184**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1767): 135 Yeas, 1 Nays, 2 Present, not voting.

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

Nays — Harper-Brown.

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

Absent, Excused — Branch; Isett.

Absent — Bonnen; Darby; Davis, J.; England; Flores; Moreno; Noriega; Oliveira; Phillips; Pierson.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 1767. I intended to vote no.

Harless

**Senate Committee Substitute**

**CSHB 3184**, A bill to be entitled An Act relating to educating parents about the benefits of immunizing certain children against influenza.

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

SECTION 1. Section 161.0101, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall work to increase immunization awareness and participation among parents of children in child-care facilities, as defined by Section 42.002, Human Resources Code, in the state's early childhood vaccination program by publishing on the department's website information about the benefits of annual immunization against influenza for children aged six months to five years. The department shall work with the Department of Family and Protective Services and with child-care facilities to ensure that the information is annually distributed to parents in August or September.

SECTION 2. Subchapter E, Chapter 431, Health and Safety Code, is amended by adding Section 431.117 to read as follows:

Sec. 431.117. PRIORITY FOR HEALTH CARE PROVIDERS IN DISTRIBUTION OF INFLUENZA VACCINE. The executive commissioner of the Health and Human Services Commission shall study the wholesale distribution of influenza vaccine in this state to determine the feasibility of implementing a system that requires giving a priority in filling orders for influenza vaccine to physicians and other licensed health care providers authorized to administer influenza vaccine over retail establishments. The executive commissioner may implement such a system if it is determined to be feasible.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 3190 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3190**, A bill to be entitled An Act relating to minimum standards for school bus operators.

Representative Giddings moved to concur in the senate amendments to **HB 3190**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1768): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent — Bonnen; Burnam; Eissler; Moreno; O'Day; Oliveira; Paxton; Strama.

### STATEMENT OF VOTE

When Record No. 1768 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

### Senate Committee Substitute

**CSHB 3190**, A bill to be entitled An Act relating to school bus safety; creating an offense.

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

SECTION 1. Section 521.022(d), Transportation Code, is amended to read as follows:

(d) A person may not operate a school bus for the transportation of students unless the person's driving record is acceptable according to minimum standards adopted by the department. A check of the person's driving record shall be made with the department annually. The minimum standards adopted by the department must provide that a person's driving record is not acceptable if the person has been convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, within the 10-year period preceding the date of the check of the person's driving record.

SECTION 2. Section 541.201, Transportation Code, is amended by adding Subdivision (11-a) and amending Subdivision (15) to read as follows:

(11-a) "Multifunction school activity bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture other than the standards requiring the bus to display alternately flashing red lights and to be equipped with movable stop arms, and that is used to transport preprimary, primary, or secondary students on a school-related activity trip other than on routes to and from school. The term does not include a school bus, a school activity bus, a school-chartered bus, or a bus operated by a mass transit authority.

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, open-enrollment charter school, regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, ~~or~~ a school bus, or a multifunction school activity bus.

SECTION 3. Section 545.001, Transportation Code, is amended to read as follows:

Sec. 545.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Pass" [~~pass~~] or "passing" used in reference to a vehicle means to overtake and proceed past another vehicle moving in the same direction as the passing vehicle or to attempt that maneuver.

(2) "School bus" includes a multifunction school activity bus.

SECTION 4. Section 545.413(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if:

(1) the person:

(A) [~~is~~] is at least 15 years of age;

(B) [~~is~~] is riding in the front seat of a passenger vehicle while the vehicle is being operated;

(C) [~~is~~] is occupying a seat that is equipped with a safety belt; and

(D) [~~is~~] is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.

SECTION 5. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.426 to read as follows:

Sec. 545.426. OPERATION OF SCHOOL BUS. (a) A person may not operate a school bus if:

(1) the door of the school bus is open; or

(2) the number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

(b) An operator of a school bus, while operating the bus, shall prohibit a passenger from:

(1) standing in the bus; or

(2) sitting:

(A) on the floor of the bus; or

(B) in any location on the bus that is not designed as a seat.

(c) The department may adopt rules necessary to administer and enforce this section.

SECTION 6. Subchapter L, Chapter 547, Transportation Code, is amended by adding Section 547.7012 to read as follows:

Sec. 547.7012. REQUIREMENTS FOR MULTIFUNCTION SCHOOL ACTIVITY BUSES. A multifunction school activity bus may not be painted National School Bus Glossy Yellow.

SECTION 7. Chapter 34, Education Code, is amended by adding Section 34.0021 to read as follows:

Sec. 34.0021. SCHOOL BUS EMERGENCY EVACUATION TRAINING.

(a) Pursuant to the safety standards established by the Department of Public Safety under Section 34.002, each school district shall conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency.

(b) A school district shall conduct the school bus emergency evacuation training at least twice each school year, with one training session occurring in the fall and one training session occurring in the spring. A portion of the training session must occur on a school bus and the training session must last for at least one hour.

(c) The school bus emergency evacuation training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

(d) Not later than the 30th day after the date that a school district completes a training session, the district shall provide the Department of Public Safety with a record certifying the district's completion of the training.

(e) The Department of Public Safety may adopt rules necessary to implement this section.

SECTION 8. The change in law made by this Act by adding Section 34.0021, Education Code, applies beginning with the 2007-2008 school year.

SECTION 9. This Act takes effect September 1, 2007.

### **HB 3426 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3426**, A bill to be entitled An Act relating to the continuation and functions of the Texas Veterans Commission and to certain veterans issues.

Representative Flynn moved to concur in the senate amendments to **HB 3426**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1769): 141 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Burnam; Castro; Moreno; Noriega; Oliveira.

#### STATEMENT OF VOTE

When Record No. 1769 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

#### Senate Committee Substitute

**CSHB 3426**, A bill to be entitled An Act relating to the continuation and functions of the Texas Veterans Commission.

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

SECTION 1. Section 434.002(a), Government Code, is amended to read as follows:

(a) The Texas Veterans Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2013 [~~2007~~].

SECTION 2. Section ~~434.003~~, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The commission is composed of five members appointed by the governor with the advice and consent of the senate. The governor shall make each appointment without regard to the race, color, disability [ ~~creed~~], sex, religion, age, or national origin of the appointee.

(e) A person may not be a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization, other than a veterans service organization, receiving money from the commission; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the commission.

SECTION 3. Section 434.004, Government Code, is amended to read as follows:

Sec. 434.004. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas or national veterans service organization or a Texas trade association in the field of labor, workforce development, or career schools and colleges; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas or national veterans service organization or a Texas trade association in the field of labor, workforce development, or career schools and colleges.

(c) A person may not serve as a member of the commission if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of labor, workforce development, or career schools and colleges; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of labor, workforce development, or career schools and colleges.

(d) A person required to register as a lobbyist under Chapter 305 because of activities on behalf of a veterans association may not serve as a member of or as general counsel to the commission.

SECTION 4. Section 434.005, Government Code, is amended to read as follows:

Sec. 434.005. REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does ~~did~~ not have at the time of taking office ~~[when appointed]~~, or does not maintain during the service on the commission, the qualifications required by Section 434.003 for appointment to the commission;

(2) violates a prohibition under Section 434.004; ~~or~~

(3) fails to attend at least half of the regularly scheduled commission meetings held in a calendar year, excluding meetings held while the person was not a member of the commission without an excuse approved by a majority vote of the commission; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 5. Section 434.006, Government Code, is amended to read as follows:

Sec. 434.006. OFFICERS; COMMISSION ACTIONS. (a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(b) The commission annually shall elect from among its members an assistant presiding officer [~~a chairman, a vice chairman,~~] and a secretary. An officer shall serve until the officer's successor is appointed and qualified.

(c) [(b)] The commission shall meet at least once in each three-month period. No action may be taken by less than a majority of the commission.

SECTION 6. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0061 to read as follows:

Sec. 434.0061. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the commission;
- (2) the programs, functions, rules, and budget of the commission;
- (3) the results of the most recent formal audit of the commission;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 7. Subchapter A, Chapter 434, Government Code, is amended by adding Sections 434.0076 through 434.0078 to read as follows:

Sec. 434.0076. RECORD OF COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

Sec. 434.0077. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution shall conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) The commission shall adopt procedures for administering claims assistance services under Section 434.007(5). The procedures shall include:

(1) criteria for determining when a veteran's initial claim is substantially complete and basic eligibility requirements are met as provided by federal law;

(2) a process for expediting a claim based on hardship, including whether the veteran:

(A) is in immediate need;

(B) is terminally ill;

(C) has a verifiable financial hardship; or

(D) has a disability that presents an undue burden;

(3) a procedure for counseling veterans on the potential merits or drawbacks of pursuing a claim;

(4) a process to ensure adequate documentation and development of a claim or appeal, including early client involvement, collection of needed evidence and records, and analysis of actions necessary to pursue and support a claim or appeal;

(5) criteria for evaluating whether a decision of the United States Department of Veterans Affairs contains sufficient cause for filing an appeal;

(6) a requirement that a claims counselor report to the United States Department of Veterans Affairs if the counselor has direct knowledge that a claim contains false or deceptive information; and

(7) a procedure for prioritizing a claim, when appropriate, or providing an alternative source for obtaining claims assistance services when it is not appropriate to prioritize.

(b) The commission shall consult with the United States Department of Veterans Affairs in developing the procedures under Subsection (a) to:

(1) ensure the services provided by the commission do not unnecessarily duplicate services provided through the United States Department of Veterans Affairs;

(2) ensure that the procedures will provide for resolving disputes at the lowest level of the United States Department of Veterans Affairs benefit decision process;

(3) ensure that commission employees are not improperly involved in adjudicating claims; and

(4) establish broad areas of cooperation between the commission and the United States Department of Veterans Affairs to streamline and align the commission's service delivery with United States Department of Veterans Affairs processes, including:

(A) identifying processes to update changes to veterans' cases and power of attorney designation;

(B) cooperating to expedite hardship cases and appeals; and

(C) identifying opportunities for the United States Department of Veterans Affairs to provide the commission with necessary data to assist with tracking the progress and outcomes of claims.

SECTION 8. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0091 to read as follows:

Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

SECTION 9. Section 434.010, Government Code, is amended to read as follows:

Sec. 434.010. RULES. (a) The commission may adopt rules that it considers necessary for its administration.

(b) The commission shall adopt procedures for receiving input and recommendations from interested persons regarding the development of rules and policies.

SECTION 10. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0101 to read as follows:

Sec. 434.0101. ADVISORY COMMITTEES. (a) In developing procedures under Section 434.010, the commission may establish and appoint members to an advisory committee to advise and make recommendations to the commission on programs, rules, and policies affecting the delivery of services to veterans.

(b) If the commission establishes an advisory committee under Subsection (a), the commission shall adopt rules regarding:

(1) the purpose, role, and goals of the committee;

(2) the size and quorum requirements of the committee;

(3) the qualifications of the members and the criteria for selecting members;

(4) the procedures for appointing members;

(5) the terms of service of members;

(6) the training requirements of members;

(7) the implementation of a needs assessment process to regularly evaluate the continuing need for the committee; and

(8) a requirement that the committee comply with Chapter 551.

SECTION 11. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0151 to read as follows:

Sec. 434.0151. PUBLIC PARTICIPATION. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 12. Section 434.038, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1), (e), and (f) to read as follows:

(a) An officer shall, within the time after the date of the officer's appointment that the commission prescribes, complete a course of initial training provided by the Texas Veterans Commission. The commission shall issue the officer a certificate of training after completion of the initial training course. To maintain certification, the officer shall complete continuing training to the extent required by the commission ~~[attend at least one commission training conference a year]~~. An officer must maintain certification to remain in office.

(a-1) The commission shall develop and implement methods for providing training to officers. The methods may include Internet-based seminars, participation through videoconference, cooperation with training provided by the United States Department of Veterans Affairs, and other methods as appropriate.

(d) The commission shall develop standard course materials, training curriculum, and examinations to be used for county service officer certification and United States Department of Veterans Affairs accreditation. The members of the commission must approve the course materials, training curriculum, and examinations before the commission may distribute the materials and administer examinations.

(e) The commission shall:

(1) maintain course materials and examinations in a central location and provide county service offices and commission field staff with access to the course materials on the commission's Internet website;

(2) regularly update course materials, training curriculum, and examinations after consulting with:

(A) the United States Department of Veterans Affairs to ensure the course materials, training curriculum, and examinations are accurate and meet applicable United States Department of Veterans Affairs requirements; and

(B) accredited county service officers to ensure the materials, training curriculum, and examinations include issues developing at the county level; and

(3) develop a training handbook containing instruction and case studies addressing:

(A) general assistance techniques, including how to provide general information regarding state and federal benefits and referrals for other services and to other agencies, and general information regarding state and federal benefits;

(B) basic counseling approaches for assisting veterans, their family members, and other eligible dependents filing benefit claims;

(C) basic information on United States Department of Veterans Affairs processes and procedures, including how to accurately complete claims and appeals forms and how to support claims;

(D) methods of collecting required documentation and developing claims and appeals;

(E) methods of documenting progress and updating a veteran's, a veteran's family member's, or another eligible dependent's case information;

(F) methods of assisting veterans, their family members, or other eligible dependents in pursuing appeals, including offering case knowledge in appeals hearings; and

(G) methods of representing veterans, their family members, or other eligible dependents during appeals hearings.

(f) The commission may establish rules to carry out the purposes of this section, including rules regarding carryover of credit for extra course attendance from one year into subsequent years and the anniversary date by which the continuing certification requirement must be met.

SECTION 13. Subchapter B, Chapter 434, Government Code, is amended by adding Section 434.039 to read as follows:

Sec. 434.039. COORDINATION WITH COUNTY SERVICE OFFICERS AND COMMISSIONERS COURTS. The commission shall develop and adopt procedures to coordinate with county service officers and county commissioners courts to:

(1) identify the shared objectives of the commission, county service officers, and counties with a county service office in serving veterans;

(2) develop a plan for encouraging service officers to become accredited by the United States Department of Veterans Affairs;

(3) develop a procedure for consulting with counties to evaluate the state's overall approach to service delivery by county service officers and commission claims staff as part of the state's veterans assistance network;

(4) define the commission's responsibilities in overseeing claims and appeals prepared by county service officers for instances when the commission has been designated as a veteran's agent under a power of attorney;

(5) develop a process for collecting information regarding claims filed by county service officers for instances when the commission has been designated as a veteran's agent under a power of attorney, for providing technical assistance to county service officers, and for providing evaluative information, on request, to county judges or other local officials who supervise county service officers;

(6) incorporate county service officers into United States Department of Veterans Affairs appeals hearings either to represent veterans or to appear as witnesses, as needed;

(7) explore opportunities for funding county service officer travel to participate in United States Department of Veterans Affairs appeals hearings; and

(8) develop procedures to regularly update county service officers on changes in United States Department of Veterans Affairs policies and procedures, and other information.

SECTION 14. Subchapter C, Chapter 434, Government Code, is amended by adding Section 434.107 to read as follows:

Sec. 434.107. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 15. The change in law made by Section 434.0061, Government Code, as added by this Act, regarding training for members of the Texas Veterans Commission does not affect the entitlement of a member serving on the commission immediately before September 1, 2007, to continue to serve and function as a member of the commission for the remainder of the member's term. The change in law described by Section 434.0061 applies only to a member appointed or reappointed on or after September 1, 2007.

SECTION 16. Not later than March 1, 2008, the Texas Veterans Commission shall comply with Sections 434.0076, 434.0078, 434.0091, 434.010(b), 434.0151, 434.038(a-1) and (e), 434.039, and 434.107, Government Code, as added by this Act, and with Section 434.038(d), Government Code, as amended by this Act.

SECTION 17. The Texas Veterans Commission shall:

(1) comply with and implement any nonstatutory recommendations regarding the Texas Veterans Commission adopted by the Sunset Advisory Commission as a result of its review of the veterans commission; and

(2) report to the Sunset Advisory Commission the information that the sunset commission requires regarding the Texas Veterans Commission's implementation of the sunset commission's nonstatutory recommendations not later than November 1, 2008.

SECTION 18. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Texas Veterans Commission do not affect the entitlement of a member serving on the Texas Veterans Commission

immediately before September 1, 2007, to continue to serve and function as a member of the Texas Veterans Commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2007.

(b) Section 434.0076, Government Code, as added by this Act, relating to complaints filed with the Texas Veterans Commission applies only to a complaint filed on or after September 1, 2007. A complaint filed with the commission before September 1, 2007, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 19. This Act takes effect September 1, 2007.

### **HB 3440 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3440**, A bill to be entitled An Act relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.

Representative Parker moved to concur in the senate amendments to **HB 3440**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1770):  
143 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Bolton; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 3440**, A bill to be entitled An Act relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.

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

SECTION 1. Section 2(11), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by Chapters 1, 1048, and 1148, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(11) "Project" shall mean:

(A) the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements (one or more) that are for the creation or retention of primary jobs and that are found by the board of directors to be required or suitable for the development, retention, or expansion of manufacturing and industrial facilities, research and development facilities, military facilities, including closed or realigned military bases, transportation facilities (including but not limited to airports, hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, primary job training facilities for use by institutions of higher education, and regional or national corporate headquarters facilities;

(B) job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this Act, as provided by Section 38 of this Act;

(C) expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises limited to streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico;

(D) the infrastructure, improvements, land acquisition, buildings, or expenditures that:

(i) ~~(A)~~ are for the creation or retention of primary jobs or jobs that are included in North American Industry Classification System (NAICS) sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for Coast Guard (except the Coast Guard Academy); and

(ii) ~~(B)~~ are found by the board of directors to be required or suitable for:

(a) ~~(+)~~ promoting or supporting a military base in active use to prevent the possible future closure or realignment of the base;

(b) ~~[(iii)]~~ attracting new military missions to a military base in active use; or

(c) ~~[(iii)]~~ redeveloping a military base that has been closed or realigned, including a military base closed or realigned according to the recommendation of the Defense Base Closure and Realignment Commission under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note);

(E) land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district;

(F) for a corporation created by a city any part of which is located within 25 miles of an international border, the land, buildings, facilities, infrastructure, and improvements that:

(i) the board of directors finds are required or suitable for the development or expansion of airport facilities; or

(ii) are undertaken by the corporation if the city that created the corporation has, at the time the project is approved by the corporation as provided by this Act:

(a) a population of less than 50,000; or

(b) an average rate of unemployment that is greater than the state average rate of unemployment during the 12-month period for which data is available that immediately precedes the date the project is approved; or

(G) expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities, if the corporation:

(i) is created by a city wholly or partly located in a county that is bordered by the Rio Grande, has a population of at least 500,000, and has wholly or partly within its boundaries at least four cities that each have a population of at least 25,000; and

(ii) does not support a project, as defined by this subdivision, with sales and use tax revenue collected under Section 4A or 4B of this Act.

SECTION 2. Section 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of that term under Section 2 of this Act, and includes job training as provided by Section 38 of this Act. For purposes of this section, the term includes recycling facilities, and land, buildings, equipment, facilities, and improvements found by the board of directors to:

(A) be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and

automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items;

(B) promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs;

(C) be required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745;

(D) be required or suitable for the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives;

(E) be required or suitable for the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities; ~~or~~

(F) be required or suitable for the development, retention, or expansion of business enterprises if the project is undertaken by a corporation created by an eligible city:

(i) that has not for each of the preceding two fiscal years received more than \$50,000 in revenues from sales and use taxes imposed under this section; and

(ii) the governing body of which has authorized the project by adopting a resolution only after giving the resolution at least two separate readings conducted at least one week apart; or

(G) be required or suitable for the development or expansion of airport facilities, including hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, if the project is undertaken by a corporation created by an eligible city:

(i) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by this subdivision; and

(ii) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.

SECTION 3. Section 32, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 32. The legislature finds, determines, and declares that the activities of a corporation created and organized under the provisions of this Act affect all the people of the unit under whose auspices it is created by assuming to a material extent that which might otherwise become the obligation or duty of such unit, and therefore such corporation is an institution of purely public charity within the tax

exemption of Article VIII, Section 2, of the Texas Constitution. However, a corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter. The legislature further finds, determines, and declares that the grants, loans, expenditures, and tax exemptions authorized by this Act in connection with a project and authorized by a corporation in accordance with this Act, constitute the making of loans or grants of public money or constitute other actions authorized by Section 52-a, Article III, Texas Constitution.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 3517 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3517**, A bill to be entitled An Act relating to competitive purchasing requirements for local governments.

Representative Creighton moved to concur in the senate amendments to **HB 3517**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1771): 141 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Dutton; Farrar; Moreno; Oliveira; Paxton.

**Senate Committee Substitute**

**CSHB 3517**, A bill to be entitled An Act relating to competitive purchasing requirements for local governments.

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

SECTION 1. The heading to Section 252.021, Local Government Code, is amended to read as follows:

Sec. 252.021. COMPETITIVE REQUIREMENTS FOR ~~[CERTAIN]~~ PURCHASES.

SECTION 2. Sections 252.021(b) and (c), Local Government Code, are amended to read as follows:

(b) ~~[Before a municipality with a population of less than 25,000 may enter into a contract for insurance that requires an expenditure of more than \$5,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding.~~

~~[(e)] A municipality may use the competitive sealed proposal procedure for the purchase of goods or services, including high technology items [procurements] and [in a municipality with a population of 25,000 or more, for the purchase of] insurance.~~

(c) The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body may delegate, as appropriate, its authority under this subsection to a designated representative. If the competitive sealed proposals requirement applies to the contract, the municipality shall consider the criteria described by Section 252.043(b) and the discussions conducted under Section 252.042 to determine the best value for the municipality.

SECTION 3. Section 262.024(a), Local Government Code, is amended to read as follows:

(a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

- (C) electric power, gas, water, and other utility services; and
- (D) captive replacement parts or components for equipment;
- (8) an item of food;
- (9) personal property sold:
  - (A) at an auction by a state licensed auctioneer;
  - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
  - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; ~~[or]~~
  - (10) any work performed under a contract for community and economic development made by a county under Section 381.004; or
  - (11) vehicle and equipment repairs.

SECTION 4. The heading to Section 262.030, Local Government Code, is amended to read as follows:

Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND ~~[INSURANCE, HIGH TECHNOLOGY ITEMS, AND SPECIAL]~~ SERVICES.

SECTION 5. Section 262.030(d), Local Government Code, is amended to read as follows:

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 ~~[having a population of one million or more according to the most recent federal census]~~ may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.

SECTION 6. Section 271.111(10), Local Government Code, is amended to read as follows:

(10) "Governmental entity" means a municipality, county, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority established under Chapter 379B ~~[378 as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999]~~.

SECTION 7. Sections 271.112(a), (d), and (f), Local Government Code, are amended to read as follows:

(a) Any provision in the charter of a home-rule municipality or regulation, if any, of a county, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority that requires the use of competitive bidding or competitive sealed proposals or that prescribes procurement procedures and that is in conflict with this subchapter controls over this subchapter unless the governing body of the governmental entity elects to have this subchapter supersede the charter or regulation.

(d) For a contract entered into by a municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority under any of the methods provided by this subchapter, the municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located. In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

(f) A contract entered into or an arrangement made in violation of this subchapter is contrary to public policy and is void. A court may enjoin performance of a contract made in violation of this subchapter. A county attorney, a district attorney, a criminal district attorney, a resident of a county that enters into a contract under this subchapter or of a county in which a municipality, ~~or a~~ river authority, or conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000 that enters into a contract under this subchapter is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court.

SECTION 8. Section 775.084(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Subsection (i), the board must submit to competitive bids an expenditure of more than \$50,000 [~~\$25,000~~] for:

- (1) one item or service; or
- (2) more than one of the same or a similar type of item or service in a fiscal year.

SECTION 9. This Act takes effect September 1, 2007.

### **HB 3571 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3571**, A bill to be entitled An Act relating to a pilot program to facilitate food stamp program outreach efforts and eligibility determination processes.

Representative Rose moved to concur in the senate amendments to **HB 3571**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1772): 117 Yeas, 20 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; England; Escobar; Farabee; Farias; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Latham; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Berman; Bohac; Christian; Crabb; Darby; Elkins; Flynn; Geren; Harper-Brown; Hughes; Kolkhorst; Kuempel; Laubenberg; Macias; O'Day; Parker; Paxton; Phillips; Riddle.

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

Absent, Excused — Branch; Isett.

Absent — Bailey; Dutton; Farrar; Flores; McClendon; Menendez; Moreno; Oliveira; Smithee.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1772. I intended to vote no.

Harless

I was shown voting yes on Record No. 1772. I intended to vote no.

Murphy

I was shown voting no on Record No. 1772. I intended to vote yes.

Parker

I was shown voting yes on Record No. 1772. I intended to vote no.

Talton

I was shown voting yes on Record No. 1772. I intended to vote no.

Woolley

### Senate Committee Substitute

**CSHB 3571**, A bill to be entitled An Act relating to a pilot program to facilitate food stamp program outreach efforts and eligibility determination processes.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.066 to read as follows:

Sec. 531.066. FOOD STAMP PROGRAM OUTREACH AND ELIGIBILITY DETERMINATION PILOT PROGRAM. (a) The commission shall develop and implement a pilot program in the South Texas region under which a private retail business that provides services related to the food stamp program administered under Chapter 33, Human Resources Code, enters into an agreement with the commission to support outreach efforts and eligibility determinations for that program.

(b) Subject to state and federal laws governing the food stamp program, an agreement between a private retail business participating in the pilot program and the commission may require the business to:

(1) provide informational materials, including eligibility guidelines and eligibility redetermination information, to the customers of the business and other persons regarding the food stamp program;

(2) perform outreach services, as determined by the commission, with respect to the program; and

(3) provide space at the retail locations of the business at which commission staff and contractors of the commission may conduct outreach efforts and eligibility determinations related to the program.

(b-1) An agreement between a private retail business participating in the pilot program and the commission may authorize the business to:

(1) implement strategies to encourage recipients of food stamps who are also Medicaid recipients to engage in healthy behaviors; and

(2) provide incentives to recipients described by Subdivision (1) who are children younger than 21 years of age to make timely health care visits under the early and periodic screening, diagnosis, and treatment program.

(c) In developing the pilot program, the executive commissioner may adopt rules regarding the requirements applicable to a private retail business that participates in the program.

(d) Not later than December 1, 2008, the commission shall submit a report to the legislature that includes:

(1) an evaluation of the pilot program, including the program's effects on the food stamp program; and

(2) recommendations regarding the continuation or expansion of the pilot program.

(e) This section expires September 1, 2009.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

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

**HB 3385 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3385**, A bill to be entitled An Act relating to the use of certain state money for costs related to the relocation to the city of Austin, Texas, of the Interstate Oil and Gas Compact Commission and for the support of that commission.

Representative Paxton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3385**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3385**: Chisum, chair; Keffer, Christian, Swinford, and D. Howard.

**HB 3711 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3711**, A bill to be entitled An Act relating to the repeal of obsolete statutes regulating railroads.

Representative Phillips moved to concur in the senate amendments to **HB 3711**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1773): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones;

Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent — Eiland; Hardcastle; King, S.; McCall; Moreno; Oliveira; Pierson; Pitts.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1773. I intended to vote no.

Kolkhorst

#### Senate Committee Substitute

**CSHB 3711**, A bill to be entitled An Act relating to repeal of obsolete statutes regulating railroads.

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

SECTION 1. Title 112, Revised Statutes, is amended by adding Article 6259a to read as follows:

Art. 6259a. DEFINITION. In this title, a reference to a railroad corporation or a railroad company means:

(1) a railroad incorporated under this title before September 1, 2007; or  
(2) any other legal entity operating a railroad in this state, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code.

SECTION 2. Article 6336, Revised Statutes, is amended to read as follows:

Art. 6336. WHEN CORPORATION AND OWNER DISAGREE. (a) A [~~##~~ ~~any~~] railroad corporation may acquire property by condemnation if the corporation cannot [~~shall at any time be unable to~~] agree with the owner for the purchase of the property and the property is [~~any real estate, or material thereon,~~] required for the following purposes:

- (1) the [~~purpose of its~~] incorporation of the railroad;
- (2) [~~or~~] the transaction of railroad corporation [~~its~~] business;
- (3) [~~, for its~~] depots, station buildings, and machine and repair shops;
- (4) [~~, for~~] the construction of reservoirs for the water supply;
- (5) [~~, or for~~] the right of way, or [~~for a~~] new or additional right of way;
- (6) a [~~, for~~] change[~~;~~] or relocation;
- (7) a [~~or~~] road bed;
- (8) shortening a [~~, to shorten the~~] line;
- (9) reducing [~~, or any part thereof, or to reduce its~~] grades;

(10) ~~[, or any of them, or for]~~ double tracking the [its] railroad or constructing and operating [its] tracks; or

(11) ~~[, which is hereby authorized and permitted, or for]~~ any other ~~[lawful]~~ purpose connected with or necessary to the building, operating, or running of the railroad [its road, such corporation may acquire such property by condemnation thereof. The limitation in width prescribed by Article 6319 shall not apply to real estate or any interest therein, required for the purposes herein mentioned, other than right of way, and shall not apply to right of way when necessary for double tracking or constructing or adding additional railroad tracks, and real estate, or any interest therein, to be acquired for such other purposes, or any of them, need not adjoin or abut on the right way, and no change of the line through any city or town, or which shall result in the abandonment of any station or depot, shall be made, except upon written order of the Railroad Commission of Texas, authorizing such change].

(b) A ~~[No]~~ railroad corporation may not ~~[shall have the right under this law to]~~ condemn property under ~~[any land for the purposes mentioned in]~~ this article that is located [situated] more than two miles from the right of way of the [such] railroad corporation.

SECTION 3. Article 6351, Revised Statutes, is amended to read as follows:

Art. 6351. EMINENT DOMAIN. A ~~[When any]~~ railroad corporation or a receiver ~~[receivers]~~ of a ~~[any]~~ railroad that changes, relocates, or abandons a ~~[shall have been empowered under the provisions of this law to change, relocate or abandon its]~~ line of railroad in this State may ~~[, it shall have full power to]~~ acquire by condemnation or otherwise all lands for right of way, depot grounds, shops, roundhouses, water supply sites, sidings, switches, spurs or any other ~~[lawful]~~ purposes connected with or necessary to the building, operating or running of the railroad, [its road] as changed, relocated or abandoned; provided~~;~~ ~~[however,]~~ that [all] property ~~[so]~~ acquired under this article is ~~[hereby]~~ declared ~~[to be]~~ for and [is] charged with public use ~~[so far as the same may be necessary].~~

SECTION 4. Article 6445(a), Revised Statutes, is amended to read as follows:

(a) To the extent not preempted by federal law, ~~[Power and authority are hereby conferred upon]~~ the Texas Department of Transportation:

(1) has power and authority over:

(A) [all] railroads, including ~~[and]~~ suburban, belt and terminal railroads;

(B) ~~[, and over all]~~ public wharves, docks, piers, elevators, warehouses, sheds, tracks and other property used in connection with railroads; ~~[therewith in this State,]~~ and

(C) ~~[over all]~~ persons, associations and corporations, private or municipal, owning or operating a [such] railroad, or a wharf, dock, pier, elevator, warehouse, shed, track or other property used in connection with a railroad; and

(2) shall ~~[to fix, and it is hereby made the duty of the said department to adopt all necessary rates, charges and regulations, to]~~ govern and regulate those [such] railroads, persons, associations and corporations, ~~[, and to correct abuses and prevent unjust discrimination in the rates, charges and tolls of such railroads,~~

~~persons, associations and corporations, and to fix division of rates, charges and regulations between railroads and other utilities and common carriers where a division is proper and correct,] and [to] prevent [any and all other] abuses in the conduct of their business [and to do and perform such other duties and details in connection therewith as may be provided by law].~~

SECTION 5. The following are repealed:

(1) Articles 6259, 6260, 6261, 6262, 6263, 6264, 6265, 6266, 6267, 6268, 6269, 6270, 6271, 6272, 6273, and 6274, Revised Statutes;

(2) Articles 6275, 6276, 6277, 6278, 6279, 6280, 6281, 6282, 6283, 6284, 6285, 6286, and 6287, Revised Statutes;

(3) Articles 6288, 6289, 6290, 6291, 6292, and 6293, Revised Statutes;

(4) Articles 6294, 6295, 6296, 6297, 6298, 6299, 6300, 6301, 6302, 6303, 6304, 6305, 6306, 6307, and 6308, Revised Statutes;

(5) Articles 6309, 6310, 6311, 6312, 6313, 6314, and 6315, Revised Statutes;

(6)(A) Articles 6316, 6317, 6319, 6321, 6322, 6323, 6324, 6325, 6328, 6329, 6330, 6331, 6332, 6333, 6334, 6335, and 6340, Revised Statutes; and

(B) Chapter 73, Acts of the 39th Legislature, Regular Session, 1925 (Article 6316a, Vernon's Texas Civil Statutes);

(7) Articles 6342, 6343, 6344, 6345, 6346, 6347, 6348, 6349, 6350, 6352, and 6353, Revised Statutes;

(8)(A) Articles 6354, 6355, 6356, 6357, 6358, 6359, 6360, 6361, 6362, 6363, 6364, 6365, 6368, 6369, 6372, 6373, 6374, 6375, 6376, 6379, 6380, 6381, 6382, 6383, 6384, 6385, 6386, 6387, 6388, 6389, 6390, 6391, 6392, 6393, 6394, 6395, 6396, 6397, 6398, 6399, 6401, 6403, 6404, 6405, 6406, 6407, 6408, 6409, 6410, 6411, 6412, 6413, 6414, 6415, 6416, 6418, and 6419, Revised Statutes;

(B) Chapter 33, Acts of the 69th Legislature, Regular Session, 1985 (Article 6398a, Vernon's Texas Civil Statutes);

(C) Chapter 240, Acts of the 40th Legislature, Regular Session, 1927 (Article 6418a, Vernon's Texas Civil Statutes); and

(D) Chapter 296, Acts of the 41st Legislature, Regular Session, 1929 (Article 6418b, Vernon's Texas Civil Statutes);

(9) Articles 6421, 6422, 6423, 6424, 6425, 6426, 6427, 6428, 6429, 6430, and 6431, Revised Statutes;

(10)(A) Articles 6448, 6449, 6450, 6451, 6452, 6453, 6454, 6455, 6456, 6457, 6458, 6459, 6460, 6461, 6462, 6463, 6466, 6469, 6470, 6473, 6474, 6478, 6479, 6480, 6481, 6482, 6483, 6484, 6485, 6486, 6487, 6488, 6489, 6490, 6491, 6492, 6493, 6494, 6495, 6496, 6497, 6498, 6499, 6500, 6501, 6502, 6503, 6504, 6505, 6506, 6507, 6508, 6509, 6510, 6511, 6512, 6513, 6514, 6515, 6516, 6517, 6518, and 6519, Revised Statutes;

(B) Chapter 127, Acts of 56th Legislature, Regular Session, 1959 (Article 6478a, Vernon's Texas Civil Statutes); and

(C) Chapter 110, Acts of the 43rd Legislature, Regular Session, 1933 (Article 6479a, Vernon's Texas Civil Statutes);

(11) Articles 6520, 6521, 6522, 6523, 6524, 6525, 6526, 6527, 6528, 6529, 6530, 6531, 6532, 6533, and 6534, Revised Statutes;

- (12) Article 6549, Revised Statutes;
- (13) Articles 6551, 6552, 6553, and 6554, Revised Statutes; and
- (14)(A) Articles 6555, 6556, 6557, 6558, and 6559, Revised Statutes;

and

(B) the following Acts and articles as compiled in Vernon's Texas Civil Statutes: 6559g-1, 6559g-2, 6559h-1, 6559h-2, 6559h-3, 6559h-4, 6559h-5, 6559h-6, 6559h-7, 6559h-8, 6559h-9, 6559h-10, 6559h-11, 6559i-3, 6559i-4, 6559i-5, 6559i-6, and 6559i-7.

SECTION 6. A railroad incorporated under Title 112, Revised Statutes, before the effective date of this Act:

(1) is not affected by the repeal under this Act of the laws involving incorporation under that title; and

(2) is governed by the laws involving the incorporation of railroads in effect immediately before the effective date of this Act, and the former laws are continued in effect for that purpose.

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

### **HB 4107 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4107**, A bill to be entitled An Act relating to the appointment and duties of criminal magistrates for certain courts in Nueces County.

Representative Herrero moved to concur in the senate amendments to **HB 4107**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1774): 139 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Eiland; King, S.; Madden; McCall; Moreno; Oliveira; Pierson.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 4107** (House Engrossment) in SECTION 2 of the bill by striking added Section 54.1783, Government Code (page 3, lines 15 through 26) and substituting the following:

Sec. 54.1783. ELIGIBILITY FOR APPOINTMENT. In determining whom to appoint as a magistrate under this subchapter, the judges of the district courts or the judges of the county courts at law, as applicable, shall consider persons who:

- (1) are licensed to practice law in this state;
- (2) reside in Nueces County;
- (3) have at least 10 years of active experience in criminal law practice;

and

- (4) exhibit judicial temperaments.

### **HB 3064 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3064**, A bill to be entitled An Act relating to registration and regulation of certain discount health plans; providing penalties.

Representative Delisi moved to concur in the senate amendments to **HB 3064**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1775):  
134 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose;

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

Nays — Christian; Harper-Brown; Kolkhorst; Phillips.

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

Absent, Excused — Branch; Isett.

Absent — Eiland; Giddings; Howard, C.; King, S.; Moreno; Oliveira; Pierson; Smith, W.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1775. I intended to vote no.

Berman

### Senate Committee Substitute

**CSHB 3064**, A bill to be entitled An Act relating to registration and regulation of certain discount health plans; providing penalties.

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

SECTION 1. The heading to Subtitle C, Title 2, Health and Safety Code, is amended to read as follows:

#### SUBTITLE C. PROGRAMS PROVIDING ~~[INDIGENT]~~ HEALTH CARE BENEFITS AND SERVICES

SECTION 2. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 76 to read as follows:

#### CHAPTER 76. DISCOUNT HEALTH CARE PROGRAMS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 76.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Discount health care program" means a business arrangement or contract in which an entity, in exchange for fees, dues, charges, or other consideration, offers its members access to discounts on health care services provided by health care providers. The term does not include an insurance policy, certificate of coverage, or other product regulated by the Texas Department of Insurance or a self-funded or self-insured employee benefit plan.

(4) "Discount health care program operator" means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charge to members.

(5) "Marketer" means a person that sells or distributes a discount health care program, including a private label entity that places its name on and markets or distributes a discount health care program, but does not operate a discount health care program.

(6) "Member" means a person who pays fees, dues, charges, or other consideration for the right to participate in a discount health care program.

(7) "Program operator" means a discount health plan program operator.

(8) "Provider" means a person who is licensed or otherwise authorized to provide health care services in this state.

Sec. 76.002. APPLICABILITY OF OTHER LAW. In addition to the requirements of this chapter, a program operator or marketer is subject to the applicable consumer protection laws under Chapter 17, Business & Commerce Code.

Sec. 76.003. RULES. The commission shall adopt the rules necessary to implement this chapter.

[Sections 76.004-76.050 reserved for expansion]

#### SUBCHAPTER B. PROGRAM REQUIREMENTS

Sec. 76.051. PROGRAM OPERATOR. Except as otherwise provided by this chapter, a program operator, including the operator of a freestanding discount health care program or a discount health care program marketed by an insurer or a health maintenance organization, shall comply with this chapter.

Sec. 76.052. PROHIBITED ADVERTISEMENT, SOLICITATION, AND MARKETING. (a) Any advertisement, solicitation, or marketing material of a discount health care program may not contain false, misleading, or deceptive statements, including statements that:

(1) misrepresent the price range of discounts offered by the discount health care program;

(2) misrepresent the size or location of the program's network of providers;

(3) knowingly misrepresent the participation of a provider in the program's network; or

(4) suggest that a discount card offered through the program is a federally approved Medicare prescription discount card.

(b) Any advertisement, solicitation, and marketing material of a discount health care program shall clearly and conspicuously state that the discount health care program is not insurance.

(c) Any advertisement, solicitation, or marketing material of a discount health care program may not use the term "insurance," except as a disclaimer of any relationship between the discount health care program and insurance, or as a description of an insurance product connected with a discount health care program.

(d) Any advertisement, solicitation, or marketing material of a discount health care program may not use the term "health plan," "coverage," "copay," "copayments," "deductible," "preexisting conditions," "guaranteed issue," "premium," "PPO," or "preferred provider organization," or another similar term, in a manner that could reasonably mislead an individual into believing that the discount health care program is health insurance or provides similar coverage.

(e) Any advertisement, solicitation, or marketing material of a discount health care program may not use the term "free," "no obligation," "discounted," or "reduced," or another similar term, without disclosing clearly and

conspicuously, and in close proximity to the use of the term, any and all conditions, limitations, and restrictions on the ability of the member or prospective member to obtain or use the good or service to which the term applies.

(f) A program operator may not offer a "free" trial membership in a discount health care program without disclosing clearly and conspicuously, and in close proximity to the offer:

(1) any obligation of the member or prospective member associated with accepting the offered trial membership, including:

(A) an obligation to purchase other goods and services;

(B) an obligation to cancel membership or take other affirmative action to avoid incurring payment obligations; and

(C) the manner in which a cancellation request may be submitted;

(2) the number of payments and amount of each payment that are or may be required and the circumstances under which additional payments may be required; and

(3) the conditions, limitations, and restrictions on the ability of the member or prospective member to use or cancel the offered trial membership.

Sec. 76.053. DISCLOSURE MATERIALS REQUIRED. (a) A program operator shall, before enrollment or with the written materials describing the terms and conditions of the program that are provided after enrollment, provide each prospective or new member disclosure materials containing the following information:

(1) a general description of the services and products offered through the discount health care program and the types of providers available;

(2) a toll-free telephone number and an Internet website address through which a person may:

(A) obtain information about the discount health care program; and

(B) confirm or find a provider currently participating in that program;

(3) a clear and conspicuous statement that:

(A) the discount health care program is not insurance, with the word "not" capitalized; and

(B) the member is required to pay the entire amount of the discounted rate;

(4) a statement that a member who cancels the membership not later than the 30th day after the date the member joins the discount health care program is entitled to a refund of all membership fees paid to the discount health care program other than money paid as a nominal one-time enrollment fee or money paid by the member to a provider for health care services or products received;

(5) a statement that the discount health care program does not guarantee the quality of the services or products offered by individual providers;

(6) a statement that a member may file a complaint under the discount health care program's complaint resolution procedure regarding the availability of contracted discounts or services or other matters relating to the contractual obligations of the program to its members; and

(7) a toll-free telephone number for filing complaints with the department.

(b) A marketer shall use disclosure materials that comply with Subsection (a).

Sec. 76.054. PROGRAM OPERATOR DUTIES. A program operator shall:

(1) provide a toll-free telephone number and Internet website for members to obtain information about the discount health care program and confirm or find providers currently participating in the program;

(2) remove a provider from the discount health care program not later than the 30th day after the date the operator learns that the provider has lost the authority to provide services or products, including the suspension or revocation of the provider's license;

(3) issue at least one membership card to serve as proof of membership in the discount health care program that must:

(A) contain a clear and conspicuous statement that the discount health care program is not insurance; and

(B) if the discount health care program includes discount prescription drug benefits, include:

(i) the name or logo of the entity administering the prescription drug benefits;

(ii) the international identification number assigned by the American National Standards Institute for the entity administering the prescription drug benefits;

(iii) the group number applicable to the member; and

(iv) a telephone number to be used to contact an appropriate person to obtain information relating to the prescription drug benefits provided under the program;

(4) issue at least one set of disclosure materials to each household in which a person is a member;

(5) ensure that an application form or other membership agreement:

(A) clearly and conspicuously discloses the duration of membership and the amount of payments the member is obligated to make for the membership; and

(B) contains a clear and conspicuous statement that the discount health care program is not insurance;

(6) allow any member who cancels a membership in the discount health care program not later than the 30th day after the date the person becomes a member to receive a refund, not later than the 30th day after the date the operator receives a valid cancellation notice and returned membership card, of all

membership fees paid by that member to the program operator other than an amount paid as a one-time enrollment fee or amount paid by the member to a provider for health care services or products received;

(7) maintain a surety bond, for the payment of consumer claims in a manner prescribed by the department, in the principal amount of at least \$50,000, except that an insurer licensed under Title 6, Insurance Code, is not required to maintain the surety bond;

(8) maintain an agent for service of process in this state; and

(9) establish and operate a fair and efficient procedure for resolution of complaints regarding the availability of contracted discounts or services or other matters relating to the contractual obligations of the discount health care program to its members.

Sec. 76.055. MARKETING OF PROGRAM. (a) A program operator may market directly or contract with marketers for the distribution of the operator's discount health care program.

(b) A program operator shall enter into a written contract with a marketer before the marketer begins marketing, promoting, selling, or distributing the program operator's discount health care program. The contract must prohibit the marketer from using advertising, solicitations, or other marketing materials, or discount cards that have not been approved in advance and in writing by the program operator.

(c) A program operator must approve in writing all advertisements, solicitations, or other marketing materials, and discount cards used by marketers to market, promote, sell, or distribute the discount health care program before their use.

Sec. 76.056. CONTRACT REQUIREMENTS. (a) A program operator shall contract, directly or indirectly, with a provider offering discounted health care services or products under the discount health care program. The written contract must contain all of the following provisions:

(1) a description of the discounts to be provided to a member;

(2) a provision prohibiting the provider from charging a member more than the discounted rate agreed to in the written agreement with the provider; and

(3) a provision requiring the provider to promptly notify the program operator if the provider loses the authority to provide services or products, including by suspension or revocation of the provider's license.

(b) The program operator may not charge or receive from a provider any fee or other compensation for entering into the agreement.

(c) If the program operator contracts with a network of providers, the program operator shall obtain written assurance from the network that:

(1) the network has a written agreement with each network provider that includes a discounted rate that is applicable to a program operator's discount health care program and contains all of the terms described in Subsection (a); and

(2) the network is authorized to obligate the network providers to provide services to members of the discount health care program.

(d) The program operator shall require the network to:

(1) maintain and provide the program operator on a monthly basis an up-to-date list of providers in the network; and

(2) promptly remove a provider from its network if the provider loses the authority to provide services or products.

(e) The program operator shall maintain a copy of each written agreement the program operator has with a provider or a network.

[Sections 76.057-76.100 reserved for expansion]

#### SUBCHAPTER C. REGISTRATION

Sec. 76.101. REGISTRATION REQUIRED; FEES. (a) A program operator may not offer a discount health care program in this state unless the operator is registered with the department.

(b) An applicant for registration under this chapter or an applicant for renewal of registration under this chapter whose information has changed must submit:

(1) a registration form indicating the program operator's name and address and its agent for service of process;

(2) a list of names, addresses, official positions, and biographical information of:

(A) the individuals responsible for conducting the program operator's affairs, including:

(i) each member of the board of directors, board of trustees, executive committee, or other governing board or committee;

(ii) the officers of the program operator; and

(iii) any contracted management company personnel; and

(B) any person owning or having the right to acquire 10 percent or more of the voting securities of the program operator;

(3) a statement generally describing the applicant, its facilities and personnel, and the health care services or products for which a discount will be made available under the discount health care program;

(4) a list of the marketers authorized to sell or distribute the program operator's program under the program operator's name and a list of the marketing entities authorized to private label the program operator's program; and

(5) a copy of the form of all contracts made or to be made between the program operator and any providers or provider networks regarding the provision of health care services or products to members.

(c) After the initial registration, if the form of a contract described by Subsection (b)(5) changes, the program operator must file the modified contract form with the department before it may be used.

(d) As part of the registration required under Subsection (b), and annually thereafter, the program operator shall certify to the department that its programs comply with the requirements of this chapter.

(e) A discount health care program shall pay the department an initial registration fee of \$1,000 and an annual renewal fee not to exceed \$500.

(f) The department may conduct a criminal background check on the individuals responsible for conducting the program operator's affairs, each member of the board of directors, board of trustees, executive committee, or other

governing board or committee, the officers of the program operator, any contracted management company personnel, and any person owning or having the right to acquire 10 percent or more of the voting securities of the program operator.

(g) This section does not apply to a program operator licensed under Title 6, Insurance Code.

[Sections 76.102-76.150 reserved for expansion]

SUBCHAPTER D. DISCIPLINARY ACTION; PENALTIES.

Sec. 76.151. DISCIPLINARY ACTION. On a finding that a ground for disciplinary action exists under this chapter, the executive director of the department may impose an administrative sanction, including any administrative penalty, as provided by Chapter 51, Occupations Code.

Sec. 76.152. INJUNCTIVE RELIEF; CIVIL PENALTY; DAMAGES. (a) The executive director of the department may institute an action against a program operator or marketer for injunctive relief under Section 51.352, Occupations Code, to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director of the department may institute an action for a civil penalty as provided by Section 51.352, Occupations Code.

(c) The amount of any civil penalty assessed under this section may not exceed \$2,500 for each violation.

(d) Advertising, selling, or distributing a discount health care program that violates this chapter is a false, misleading, or deceptive act or practice for purposes of Section 17.46, Business & Commerce Code. The exclusive remedy for the violation of Section 17.46, Business & Commerce Code, is an action by the office of the attorney general as provided by Section 17.46(a), Business & Commerce Code.

(e) The office of the attorney general may not bring an action under Section 17.46, Business & Commerce Code, for a violation arising out of the same act or failure to act for which an administrative or civil penalty has been assessed in accordance with Section 76.151 or this section.

Sec. 76.153. ADMINISTRATIVE PROCEDURE. Sections 51.310, 51.353, and 51.354, Occupations Code, apply to a disciplinary action taken under this chapter.

Sec. 76.154. APPEAL. A person affected by a ruling, order, decision, or other action of the executive director of the department or the department may appeal by filing a petition in a district court in Travis County.

Sec. 76.155. SUBPOENAS. (a) The department may issue a subpoena as provided by this section.

(b) The department may request and, if necessary, compel by subpoena:

(1) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or a rule adopted or order issued by the commission or executive director; and

(2) the attendance of a witness for examination under oath.

(c) A subpoena under this section may be issued throughout this state and may be served by any person designated by the commission or the executive director.

(d) The department, acting through the attorney general, may bring an action to enforce a subpoena issued under this section against a person who fails to comply with the subpoena.

(e) Venue for an action brought under this section is in a district court in:

(1) Travis County; or

(2) any county in which the department may hold a hearing.

(f) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 76.156. CEASE AND DESIST ORDERS. The executive director may issue a cease and desist order if the executive director determines that the action is necessary to prevent a violation of:

(1) this chapter; or

(2) a rule adopted or order issued by the commission or the executive director.

Sec. 76.157. EMERGENCY ORDERS. (a) If the executive director determines that an emergency exists requiring immediate action to protect the public health and safety, the executive director may issue an emergency order to suspend or revoke a registration or to halt operation of a person subject to regulation by the department under this chapter.

(b) The executive director may issue the emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

SECTION 3. Not later than January 1, 2008, the Texas Commission on Licensing and Regulation shall adopt the rules and procedures necessary to implement Chapter 76, Health and Safety Code, as added by this Act.

SECTION 4. Notwithstanding Section 76.101, Health and Safety Code, as added by this Act, a person is not required to register under that section before April 1, 2008.

SECTION 5. This Act takes effect September 1, 2007.

### **HB 3199 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3199**, A bill to be entitled An Act relating to the creation of the Judicial Compensation Commission.

Representative Hartnett moved to concur in the senate amendments to **HB 3199**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1776):  
137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Burnam; Gallego; Giddings; Heflin; Hochberg; Martinez; Moreno; Oliveira; Pierson.

### STATEMENT OF VOTE

When Record No. 1776 was taken, I was temporarily out of the house chamber. I would have voted yes.

Heflin

### Senate Committee Substitute

**CSHB 3199**, A bill to be entitled An Act relating to the creation of the Judicial Compensation Commission.

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

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 35 to read as follows:

#### CHAPTER 35. JUDICIAL COMPENSATION COMMISSION

##### SUBCHAPTER A. ORGANIZATION

Sec. 35.001. DEFINITION. In this chapter, "commission" means the Judicial Compensation Commission.

Sec. 35.002. MEMBERSHIP; TERMS. (a) The commission consists of nine members appointed by the governor with the advice and consent of the senate.

(b) No more than three members serving on the commission may be licensed to practice law in this state.

(c) Members serve for staggered terms of six years with the terms of three members expiring February 1 of each odd-numbered year.

Sec. 35.003. VACANCY. In the event of a vacancy, the governor shall appoint a replacement to fill the unexpired portion of the term.

Sec. 35.004. PRESIDING OFFICER. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the will of the governor. The presiding officer may vote on all matters before the commission.

Sec. 35.005. QUALIFICATIONS. (a) Each member must be a registered voter of the state.

(b) A member of the commission may not hold any other public office or be an employee of any state department, agency, board, or commission during the member's tenure on the commission.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 35.006. REMOVAL. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of appointment the qualification required by Section 35.005(a);

(2) does not maintain during service on the commission the qualification required by Section 35.005(a);

(3) violates the prohibition established by Section 35.005(b);

(4) is ineligible for membership under Section 35.005(c);

(5) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(6) is absent from more than half of the regularly scheduled meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

Sec. 35.007. ADMINISTRATIVE SUPPORT. (a) The Office of Court Administration of the Texas Judicial System shall provide administrative support for the commission. The commission is entitled to receive staff support, meeting facilities, temporary work facilities, including computer, telephone, reproduction, and facsimile equipment, available data, and other resources from the office as necessary to carry out the commission's powers and duties.

(b) The Office of Court Administration of the Texas Judicial System shall grant all reasonable requests for staff support and resources under this section.

Sec. 35.008. COMPENSATION AND REIMBURSEMENT. (a) A member of the commission may not receive compensation for the member's service on the commission.

(b) The Office of Court Administration of the Texas Judicial System shall reimburse a member for all actual and reasonable expenses incurred in the exercise of powers and performance of duties under this chapter.

(c) A member shall follow the reimbursement procedures of the Office of Court Administration of the Texas Judicial System.

[Sections 35.009-35.100 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 35.101. MEETINGS. The commission shall meet at the call of the presiding officer or at the request of a majority of the members.

Sec. 35.102. BIENNIAL REPORTS. (a) Not later than December 1 of each even-numbered year, the commission shall make a biennial report to the legislature. In the report, the commission shall recommend the proper salaries to be paid by the state for all justices and judges of the supreme court, the court of criminal appeals, the courts of appeals, and the district courts.

(b) In recommending the proper salaries for all justices and judges of the supreme court, the court of criminal appeals, the courts of appeals, and the district courts, the commission shall consider the following factors:

(1) the skill and experience required of the particular judgeship at issue;

(2) the value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the federal government;

(3) the value of comparable service performed in the private sector, including private judging, arbitration, and mediation;

(4) the compensation of attorneys in the private sector;

(5) the cost of living and changes in the cost of living;

(6) the compensation from the state presently received by other public officials in the state, including:

(A) state constitutional officeholders;

(B) deans, presidents, and chancellors of the public university systems; and

(C) city attorneys in major metropolitan areas for which that information is readily available;

(7) other factors that are normally or traditionally taken into consideration in the determination of judicial compensation; and

(8) most importantly, the level of overall compensation adequate to attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns.

SECTION 2. In appointing the initial members of the Judicial Compensation Commission, the governor shall appoint three persons to terms expiring February 1, 2009, three persons to terms expiring February 1, 2011, and three persons to terms expiring February 1, 2013.

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

**HB 4028 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4028**, A bill to be entitled An Act relating to the creation of the Northern Trinity Groundwater Conservation District.

Representative Geren moved to concur in the senate amendments to **HB 4028**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1777): 140 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Castro; Gallego; Hochberg; Moreno; Oliveira; Zedler.

**STATEMENT OF VOTE**

When Record No. 1777 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

**Senate Committee Substitute**

**CSHB 4028**, A bill to be entitled An Act relating to the creation of the Northern Trinity Groundwater Conservation District.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8820 to read as follows:

CHAPTER 8820. NORTHERN TRINITY GROUNDWATER CONSERVATION  
DISTRICT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8820.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Northern Trinity Groundwater Conservation District.

Sec. 8820.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Tarrant County created under Section 59, Article XVI, Texas Constitution.

Sec. 8820.003. DISTRICT TERRITORY. The boundaries of the district are coextensive with the boundaries of Tarrant County.

Sec. 8820.004. CONFIRMATION ELECTION NOT REQUIRED. The board is not required to hold an election to confirm the district's creation.

[Sections 8820.005-8820.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8820.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8820.052. APPOINTMENT OF DIRECTORS. (a) The Tarrant County Commissioners Court shall appoint one director from each of the four commissioners precincts in the county to represent the precinct in which the director resides.

(b) The county judge of Tarrant County shall appoint one director who resides in the district to represent the district at large.

Sec. 8820.053. INITIAL DIRECTORS. (a) Not later than the 45th day after the effective date of this chapter:

(1) the Tarrant County Commissioners Court shall appoint one director from each of the four commissioners precincts in the county to represent the precinct in which the director resides; and

(2) the county judge of Tarrant County shall appoint one director who resides in the district to represent the district at large.

(b) The initial board may agree on which three directors serve four-year terms that expire at the end of the calendar year following the fourth anniversary of the effective date of this chapter, and which two directors serve two-year terms that expire at the end of the calendar year following the second anniversary of the effective date of this chapter. If the initial board cannot agree, the directors shall draw lots to determine which three directors serve the four-year terms and which two directors serve the two-year terms.

(c) This section expires September 1, 2014.

[Sections 8820.054-8820.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8820.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8820.102. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8820.103-8820.150 reserved for expansion]

SUBCHAPTER D. REGULATION OF OTHER DISTRICTS

Sec. 8820.151. REGULATION OF WELLS IN ANOTHER DISTRICT. Except as provided by this subchapter, the district may not regulate the drilling or equipping of, or the completion, operation, or production of, a well located in the district and in another conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, and that on January 1, 2007:

(1) had statutory authority to require a person to obtain a permit before drilling, equipping, completing, altering, or operating a well in its boundaries; and

(2) had adopted rules to implement that statutory authority.

Sec. 8820.152. FEES ON WELLS IN ANOTHER DISTRICT. The district may assess to the owner or operator of a well located in a conservation and reclamation district described by Section 8820.151 a fee based on the amount of groundwater produced from the well in the same manner and at the same rate as other wells in the district.

Sec. 8820.153. COORDINATION WITH OTHER DISTRICTS. (a) The district and any conservation and reclamation district described by Section 8820.151 shall meet to:

(1) coordinate the adoption of rules by each district to promote consistent planning and regulation; and

(2) develop procedures to ensure the expedited exchange of technical and regulatory information between the districts.

(b) The district and a conservation and reclamation district described by Section 8820.151 may enter into one or more agreements to implement this section, including an interlocal contract under Chapter 791, Government Code.

[Sections 8820.154-8820.200 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8820.201. TAXES AND BONDS PROHIBITED. The district may not impose a tax or issue bonds.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 4045 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4045**, A bill to be entitled An Act relating to the creation of the Towne Lake Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

Representative Callegari moved to concur in the senate amendments to **HB 4045**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1778): 137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Creighton; Gallego; Heflin; Hochberg; Martinez; Menendez; Moreno; Oliveira; Raymond.

### STATEMENT OF VOTE

When Record No. 1778 was taken, I was temporarily out of the house chamber. I would have voted yes.

Heflin

#### Senate Committee Substitute

**CSHB 4045**, A bill to be entitled An Act relating to the creation of the Towne Lake Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. TOWNE LAKE MANAGEMENT DISTRICT. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3839 to read as follows:

#### CHAPTER 3839. TOWNE LAKE MANAGEMENT DISTRICT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3839.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Towne Lake Management District.

Sec. 3839.002. TOWNE LAKE MANAGEMENT DISTRICT. The Towne Lake Management District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3839.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the City of Houston, Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district territory.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant the county services provided in the area in the district.

Sec. 3839.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3839.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

(1) Subchapter J, Chapter 49, Water Code; or

(2) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3839.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

(3) an enterprise zone created under Chapter 2303, Government Code.

Sec. 3839.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3839.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3839.009-3839.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3839.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. The board may not consist of fewer than five or more than 15 voting directors.

Sec. 3839.052. APPOINTMENT OF DIRECTORS. The Texas Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

Sec. 3839.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3839.054. QUORUM. For purposes of determining the requirements for a quorum, the following are not counted:

- (1) a board position vacant for any reason, including death, resignation, or disqualification;
- (2) a director who is abstaining from participation in a vote because of a conflict of interest; or
- (3) a nonvoting director.

Sec. 3839.055. COMPENSATION. Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3839.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>David Templeton</u>
<u>2</u>	<u>William F. Heavin</u>
<u>3</u>	<u>Larry Covert</u>
<u>4</u>	<u>Tom Read</u>
<u>5</u>	<u>Michael C. Shannon</u>

(b) Of the initial voting directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2009, and the terms of directors appointed for positions 4 and 5 expire June 1, 2011.

(c) Section 3839.052 does not apply to this section.

(d) This section expires September 1, 2012.

[Sections 3839.057-3839.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3839.101. INDUSTRIAL DEVELOPMENT CORPORATION POWERS. The district may exercise the powers given to an industrial development corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by that section.

Sec. 3839.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code, except that a director of the corporation is not required to reside in the district.

Sec. 3839.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3839.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with a qualified party including Harris County or the City of Houston for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3839.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3839.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(b) For purposes of this section, the district has all of the powers of a municipality under Chapter 380, Local Government Code.

Sec. 3839.107. STRATEGIC PARTNERSHIP AGREEMENT. The district may negotiate and enter into a written strategic partnership agreement with the City of Houston in the same manner as a district under Section 43.0751, Local Government Code.

Sec. 3839.108. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

[Sections 3839.109-3839.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3839.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3839.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3839.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 50 persons who own real property in the district, if more than 50 persons own real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3839.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3839.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

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

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

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

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

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

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3839.156. AD VALOREM TAX. (a) If authorized at an election held in accordance with Section 3839.160, the district may impose an annual ad valorem tax on taxable property in the district for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the tax rate.

(c) Section 49.107(h), Water Code, does not apply to the district.

Sec. 3839.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

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

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

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

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

Sec. 3839.158. BONDS AND OTHER OBLIGATIONS. (a) The district may issue by competitive bid or negotiated sale bonds, notes, or other obligations payable wholly or partly from taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) In addition to any other terms authorized by the board by bond order or resolution, the proceeds of the district's bonds may be used for a reserve fund, credit enhancement, or capitalized interest for the bonds.

(c) The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district.

Sec. 3839.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

Sec. 3839.160. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax or issues bonds payable from ad valorem taxes.

(b) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3839.161. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the City of Houston is not required to pay a bond, note, or other obligation of the district.

Sec. 3839.162. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

Sec. 3839.163. TAX AND ASSESSMENT ABATEMENTS. The district may grant in the manner authorized by Chapter 312, Tax Code, an abatement for a tax or assessment owed to the district.

[Sections 3839.164-3839.200 reserved for expansion]

#### SUBCHAPTER E. DISSOLUTION

Sec. 3839.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may dissolve the district regardless of whether the district has debt. Section 375.264, Local Government Code, does not apply to the district.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. As of the effective date of this Act, the Towne Lake Management District includes all territory contained in the following described area:

A 59.799-ACRE TRACT OF LAND SITUATED IN THE EVAN THOMAS SURVEY, ABSTRACT 775, HARRIS COUNTY, TEXAS, SAID 59.799-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

COMMENCING at a 3/4-inch iron with cap stamped "C.L.R." found for the northeast corner of Cy-Fair College as recorded under Film Code Number 543031 of the Harris County Map Records (H.C.M.R.) and in the westerly right-of-way line of Barker-Cypress Road (100-foot-wide) as recorded under Clerk's File Numbers (C.F. Nos.) M889508 and M922710 of the Official Public

Records of Real Property of Harris County, Texas (O.P.R.O.R.P.), also being in the northerly line of that certain called 160-foot wide Drainage Easement as recorded under C.F. No. V782766, O.P.R.O.R.P., and in the southerly line of that certain called 180-foot-wide Houston Lighting and Power Company Electric Transmission Easement as recorded under C.F. No. C274826, O.P.R.O.R.P., from which a 3/4-inch iron pipe bears South  $14^{\circ}40'$  East, 0.5 feet;

THENCE North  $02^{\circ}48'58''$  West, with said westerly right-of-way of Barker-Cypress Road, a distance of 255.16 feet to a point of curvature to the left;

THENCE, continuing with the said westerly right-of-way of Barker-Cypress Road in a northwesterly direction along said curve to the left, having a radius of 2950.00 feet, a central angle of  $03^{\circ}49'15''$ , an arc length of 196.72 feet, and a chord bearing of North  $04^{\circ}43'36''$  West, a distance of 196.69 feet to a 3/4-inch iron pipe found for the point of tangency;

THENCE North  $06^{\circ}38'13''$  West, continuing with said westerly right-of-way of Barker-Cypress Road, a distance of 100.00 feet to a 3/4-inch iron pipe found for a point of curvature to the right;

THENCE, continuing with the said westerly right-of-way of Barker-Cypress Road in a northwesterly direction along said curve to the right, having a radius of 3050.00 feet, a central angle of  $03^{\circ}49'15''$ , an arc length of 203.39 feet, and a chord bearing of North  $04^{\circ}43'35''$  West, a distance of 203.35 feet to a 3/4-inch iron pipe found for the point of tangency;

THENCE North  $02^{\circ}48'58''$  West, continuing with said westerly right-of-way of Barker-Cypress Road, a distance of 438.86 feet to the POINT OF BEGINNING of the herein described tract;

THENCE South  $89^{\circ}12'34''$  West a distance of 1139.55 feet to a point for corner;

THENCE North  $40^{\circ}38'18''$  West a distance of 270.36 feet to a point for corner;

THENCE North a distance of 1037.29 feet to a point for corner;

THENCE North  $26^{\circ}46'14''$  East a distance of 104.38 feet to a point for corner;

THENCE North  $26^{\circ}49'32''$  East a distance of 49.85 feet to a point for corner;

THENCE North  $20^{\circ}35'48''$  East a distance of 77.03 feet to a point of curvature to the left;

THENCE in a northeasterly direction along said curve to the left, having a radius of 900.00 feet, a central angle of  $32^{\circ}18'20''$ , an arc length of 507.46 feet, and a chord bearing of North  $04^{\circ}26'38''$  East, a distance of 500.76 feet to the point of tangency;

THENCE North  $11^{\circ}42'32''$  West a distance of 187.14 feet to a point for corner;

THENCE North  $78^{\circ}17'28''$  East a distance of 230.07 feet to a point for corner;

THENCE South  $52^{\circ}35'28''$  East a distance of 295.90 feet to a point for corner;

THENCE North  $37^{\circ}24'32''$  East a distance of 257.44 feet to a point of curvature to the right;

THENCE in a northeasterly direction along said curve to the right, having a radius of 25.00 feet, a central angle of  $49^{\circ}46'30''$ , an arc length of 21.72 feet, and a chord bearing of North  $62^{\circ}17'47''$  East, a distance of 21.04 feet to the point of tangency;

THENCE North  $87^{\circ}11'02''$  East a distance of 473.95 feet to a point for corner, being in the said westerly right-of-way of Barker-Cypress Road;

THENCE South  $02^{\circ}48'58''$  East, with the said westerly right-of-way of Barker-Cypress Road, a distance of 2226.18 feet to the POINT OF BEGINNING and containing 59.799 acres of land.

SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 472 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 472**, A bill to be entitled An Act relating to the regulation of third-party administrators, including administrators with delegated duties in the workers' compensation system of this state; providing penalties.

Representative Solomons moved to concur in the senate amendments to **HB 472**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1779): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Castro; Driver; Eiland; Gallego; Giddings; Hamilton; Hochberg; King, S.; Moreno; Oliveira; Pierson.

#### STATEMENTS OF VOTE

When Record No. 1779 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

When Record No. 1779 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

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

Amend **HB 472** as follows:

Page 2, Line 1, between the word "entity" and the period, insert "or a workers' compensation self-insurance group subject to regulation under Chapter 407A, Labor Code".

Page 2, Line 10, between "407" and "Labor", strike "or 407A".

On page 30, strike lines 10 through 13 and insert the following:

"Sec. 407A.009. CERTIFICATE OF AUTHORITY REQUIRED FOR CERTAIN ADMINISTRATORS AND SERVICE COMPANIES. (a) An administrator or service company under this chapter that performs the acts of an administrator as defined in Chapter 4151, Insurance Code, must hold a certificate of authority under that chapter.

(b) An entity is required to hold only one certificate of authority under Chapter 4151, Insurance Code, if:

(1) the entity acts as an administrator and a service company as defined in this chapter; and

(2) performs the acts of an administrator as that term is defined in Chapter 4151, Insurance Code.

(c) Exemptions in Chapter 4151, Insurance Code, as provided in Section 4151.002(18), (19), and (20) apply to an administrator or service company under this section."

Beginning on page 30, line 14, strike SECTIONS 3.06 through 3.13 (ending on page 34, line 6) in their entirety.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 1)**

Amend **HB 472**, senate committee printing, in ARTICLE 1 of the bill, in SECTION 1.20 of that article, by striking added Subchapter F, Chapter 4151, Insurance Code (page 8, line 41, through page 9, line 3), and substituting the following:

#### SUBCHAPTER F. WORKERS' COMPENSATION BENEFIT PLANS

Sec. 4151.251. DEFINITION. For purposes of this subchapter only, "insurance carrier" means:

(1) an insurance company; or

(2) a certified self-insurer for workers' compensation insurance, other than a certified self-insurance group under Chapter 407A, Labor Code, or a governmental entity that self-insures.

Sec. 4151.252. APPLICATION. (a) This subchapter applies to the administration of workers' compensation insurance coverage.

(b) This subchapter does not apply to an employer that does not elect under Subchapter A, Chapter 406, Labor Code, to obtain workers' compensation insurance coverage.

Sec. 4151.253. AGREEMENTS BETWEEN ADMINISTRATORS AND CARRIERS. (a) An administrator shall enter into a contract in connection with workers' compensation benefits for collecting premium or contributions, adjusting claims, or settling claims with the insurance carrier responsible for those claims, including the insurance carrier responsible for claims arising under policies authorized under Section 2053.202(b). A contract required by this subsection may be in the form of a master services agreement.

(b) A contract required by Subsection (a) must provide that:

(1) the contract does not limit in any way the insurance carrier's authority or responsibility, including financial responsibility, to comply with each statutory or regulatory requirement; and

(2) the administrator shall comply with each statutory or regulatory requirement relating to a function assumed by or carried out by the administrator.

Sec. 4151.254. AGREEMENTS BETWEEN ADMINISTRATORS AND EMPLOYERS. (a) In addition to the contract required by Section 4151.253, an administrator may also enter into a contract with an employer in connection with workers' compensation benefits for collecting premium or contributions, adjusting claims, or settling claims, including an employer purchasing a policy authorized under Section 2053.202(b).

(b) A contract entered into under Subsection (a) must provide that:

(1) the contract does not limit or modify in any way:

(A) the insurance carrier's authority or responsibility, including financial responsibility, to comply with each statutory or regulatory requirement; and

(B) the provisions of the contract entered into between the administrator and the insurance carrier under Section 4151.252; and

(2) the administrator shall comply with each statutory or regulatory requirement relating to a function assumed by or carried out by the administrator.

Sec. 4151.255. ADMINISTRATOR COMPENSATION. Except as provided by Section 4151.117, an administrator may accept compensation of any kind for the performance of administrative services in connection with workers' compensation claims from:

(1) an insurance carrier responsible for those claims;

(2) an employer with whom the administrator has entered into a contract; or

(3) both the insurance carrier and the employer.

Sec. 4151.256. LARGE DEDUCTIBLE POLICIES. An employer who enters into a contract with an insurance carrier under Section 2053.202(b) may not use or contract with an administrator to perform administrative services in connection with workers' compensation benefits unless the administrator has entered into a written agreement with the insurance carrier that:

(1) complies with all the provisions of this chapter; and

(2) provides that the insurance carrier is responsible for:

(A) setting standards used in the handling of claims; and

(B) arranging for the payment of claims.

Sec. 4151.257. RULES. The commissioner shall adopt rules to implement the requirements of this subchapter, including rules prescribing requirements for contracts and master services agreements and requirements for the payment of claims. The rules must provide for compliance with the requirements of this chapter for any contract that takes effect or has an annual anniversary date on or after January 1, 2008.

### **HB 473 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 473**, A bill to be entitled An Act relating to the application of certain fee guidelines to health care provided under the workers' compensation system.

Representative Solomons moved to concur in the senate amendments to **HB 473**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1780): 143 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Eiland; Moreno; Oliveira.

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

Amend **HB 473**, Senate committee printing, by inserting the following appropriately numbered SECTIONS in the bill and renumbering subsequent SECTIONS of the bill accordingly:

Section \_\_\_\_\_. Section 410.032, Labor Code, is amended to read as follows:

Sec. 410.032. PAYMENT OF BENEFITS UNDER INTERLOCUTORY ORDER. (a) The ~~As designated by the commissioner, division staff, other than the~~ benefit review officer who presides ~~[presided or will preside]~~ at the benefit review conference~~[-]~~ shall consider a request for an interlocutory order and shall give the opposing party the opportunity to respond before issuing [issue] an interlocutory order [if determined to be appropriate].

(b) The interlocutory order may address the payment or suspension of accrued benefits, future benefits, or both accrued benefits and future benefits.

SECTION \_\_\_\_\_. Section 410.032, Labor Code, as amended by this Act, applies only to a request for an interlocutory order made in conjunction with a workers' compensation benefit review conference that is conducted by a benefit review officer on or after the effective date of this Act. A request made before that date is governed by the law in effect on the date the request is made, and the former law is continued in effect for that purpose.

### **HB 1680 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1680**, A bill to be entitled An Act relating to the required payment of taxes by property owners who appeal certain ad valorem tax determinations.

Representative Swinford moved to concur in the senate amendments to **HB 1680**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1781): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Christian; Dutton; Eiland; Gallego; Hancock; Hochberg; McCall; Merritt; Moreno; Mowery; Oliveira.

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

Amend **HB 1680** in SECTION 1 of the bill, added Subsection (b-1), Section 42.08, Tax Code (Senate committee printing, page 1, line 16), by striking "notice of".

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 1680** (Senate committee printing) as follows:

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

SECTION \_\_\_\_\_. Section 42.02, Tax Code, is amended to read as follows:

Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. (a) On written approval of the board of directors of the appraisal district, the chief appraiser is entitled to appeal an order of the appraisal review board determining:

(1) a taxpayer protest as provided by Subchapter C, Chapter 41, subject to Subsection (b); or

(2) a taxpayer's motion to change the appraisal roll filed under Section 25.25.

(b) Except as provided by Subsection (c), the chief appraiser may not appeal an order of the appraisal review board determining a taxpayer protest under Subsection (a)(1) if:

(1) the protest involved a determination of the appraised or market value of the taxpayer's property and that value according to the order that is the subject of the appeal is less than \$1 million; or

(2) for any other taxpayer protest, the property to which the protest applies has an appraised value according to the appraisal roll for the current year of less than \$1 million.

(c) On written approval of the board of directors of the appraisal district, the chief appraiser may appeal an order of the appraisal review board determining a taxpayer protest otherwise prohibited by Subsection (b), if the chief appraiser alleges that the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence in the hearing before the board. In an appeal under this subsection, the court shall first consider whether the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence to the appraisal review board. If the court does not find by a preponderance of the evidence that the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence to the appraisal review board, the court shall:

(1) dismiss the appeal; and

(2) award court costs and reasonable attorney's fees to the taxpayer.

(2) In SECTION 2 of the bill, the applicability provisions (on page 1), strike line 19 and substitute the following:

SECTION \_\_\_\_\_. (a) The change in law made by this Act to Section 42.02, Tax Code, applies only to an appeal by a chief appraiser from an order of an appraisal review board that was issued on or after the effective date of this Act. An appeal by a chief appraiser from an order of an appraisal review board that was issued before the effective date of this Act is governed by the law in effect when the order of the appraisal review board was issued, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 42.08, Tax Code, applies only to

### **HB 2210 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2210**, A bill to be entitled An Act relating to law enforcement reports concerning the commission of certain offenses and the provision of certain information in those reports to victims of those offenses.

Representative Bolton moved to concur in the senate amendments to **HB 2210**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1782):  
136 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Coleman; Eiland; Farias; Gallego; Hochberg; McCall; Moreno; Mowery; Oliveira; Smithee.

### Senate Committee Substitute

**CSHB 2210**, A bill to be entitled An Act relating to law enforcement reports concerning the commission of certain offenses and the provision of certain information in those reports to victims of those offenses.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.30 to read as follows:

Art. 2.30. REPORT CONCERNING CERTAIN ASSAULTIVE OR TERRORISTIC OFFENSES. (a) This article applies only to the following offenses:

- (1) assault under Section 22.01, Penal Code;
- (2) aggravated assault under Section 22.02, Penal Code;
- (3) sexual assault under Section 22.011, Penal Code;
- (4) aggravated sexual assault under Section 22.021, Penal Code; and
- (5) terroristic threat under Section 22.07, Penal Code.

(b) A peace officer who investigates the alleged commission of an offense listed under Subsection (a) shall prepare a written report that includes the information required under Article 5.05(a).

(c) On request of a victim of an offense listed under Subsection (a), the local law enforcement agency responsible for investigating the commission of the offense shall provide the victim, at no cost to the victim, with any information that is:

- (1) contained in the written report prepared under Subsection (b);
- (2) described by Article 5.05(a)(1) or (2); and
- (3) not exempt from disclosure under Chapter 552, Government Code, or other law.

SECTION 2. Article 5.05, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) On request of a victim of an incident of family violence, the local law enforcement agency responsible for investigating the incident shall provide the victim, at no cost to the victim, with any information that is:

- (1) contained in the written report prepared under Subsection (a);
- (2) described by Subsection (a)(1) or (2); and
- (3) not exempt from disclosure under Chapter 552, Government Code, or other law.

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

## **HB 2285 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2285**, A bill to be entitled An Act relating to the renewal period for a license or registration related to radioactive materials and other sources of radiation issued by the Department of State Health Services.

Representative Chisum moved to concur in the senate amendments to **HB 2285**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1783): 134 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose;

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

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

Absent, Excused — Branch; Isett.

Absent — Eiland; Farrar; Flores; Gallego; Hochberg; Martinez Fischer; McCall; Moreno; Mowery; Noriega; Oliveira; Veasey.

### STATEMENT OF VOTE

When Record No. 1783 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

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

Amend **HB 2285** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 3 of the bill (page 1, lines 22-23) and substitute:

SECTION 3. Section 401.301, Health and Safety Code, is amended by amending Subsections (c) and (d) and adding Subsection (f) to read as follows:

(2) In SECTION 3 of the bill, following amended Subsection (d), Section 401.301, Health and Safety Code (page 1, between lines 34 and 35), insert:

(f) Notwithstanding any other provision of this section, the department may not assess a fee on a local law enforcement agency for the licensing and registration of an X-ray machine that is used to screen packages or other objects the agency suspects may contain an explosive or other item that would pose a danger to the public health and safety. Except as otherwise provided by this subsection, a local law enforcement agency is subject to the licensing and registration requirements of this chapter.

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. The changes in law made by this Act to Section 401.301, Health and Safety Code, apply to the licensing and registration of an X-ray machine on or after the effective date of this Act. The licensing and registration of an X-ray machine before the effective date of this Act is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

### HB 2291 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2291**, A bill to be entitled An Act relating to a study of victim-offender mediation programs for juvenile offenders.

Representative Farias moved to concur in the senate amendments to **HB 2291**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1784):  
136 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Coleman; Eiland; Hamilton; Martinez Fischer; McCall; Moreno; Mowery; Oliveira; Veasey; Vo.

### STATEMENT OF VOTE

When Record No. 1784 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

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

Amend **HB 2291** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 141.055(a), Human Resources Code, strike page 1, lines 20 through 30, and substitute the following:  
study must include:

(1) an evaluation of the number of juvenile probation departments that operate victim-offender mediation programs;

(2) an evaluation of the number of juvenile probation departments that contract for the services of victim-offender mediation programs;

(3) a comprehensive program description of victim-offender mediation programs that includes an evaluation of program eligibility criteria and the process for utilizing the mediation services;

(4) an evaluation of the number of children served by victim-offender mediation programs annually, including individual data on referral offenses and demographic information for children served by victim-offender mediation programs;

(5) an evaluation of the number of mediation agreements established in victim-offender mediation programs annually; and

(6) the funding sources for victim-offender mediation programs and the cost to operate those programs.

(2) In SECTION 1 of the bill, strike added Sections 141.055(b) and (c), Human Resources Code (page 1, lines 31 through 48).

(3) In SECTION 1 of the bill, in added Section 141.055(d), Human Resources Code (page 1, line 49), strike "(d) Not later than July 1, 2008," and substitute "(b) Not later than January 1, 2009,".

(4) In SECTION 1 of the bill, in added Section 141.055(d)(3), Human Resources Code (page 1, line 58), strike "any".

(5) In SECTION 1 of the bill, in added Section 141.055, Human Resources Code (page 1, line 62), strike added Subsection (e) and substitute the following:

(c) This section expires January 31, 2009.

### **HB 3358 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3358**, A bill to be entitled An Act relating to prior approval of property and casualty insurance rates under certain circumstances.

Representative Solomons moved to concur in the senate amendments to **HB 3358**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1785): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez;

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

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

Absent, Excused — Branch; Isett.

Absent — Dunnam; Eiland; King, T.; Martinez Fischer; McCall; Moreno; Noriega; Oliveira; Veasey.

### STATEMENTS OF VOTE

When Record No. 1785 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

When Record No. 1785 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

### Senate Committee Substitute

**CSHB 3358**, A bill to be entitled An Act relating to prior approval of property and casualty insurance rates under certain circumstances.

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

SECTION 1. Section 2251.151, Insurance Code, is amended by adding Subsections (a-1) and (e) to read as follows:

(a-1) If an insurer files a petition under Subchapter D, Chapter 36, for judicial review of an order disapproving a rate under this chapter, the insurer must use the rates in effect for the insurer at the time the petition is filed and may not file and use any higher rate for the same line of insurance subject to this chapter before the matter subject to judicial review is finally resolved unless the insurer, in accordance with this subchapter, files the new rate with the department, along with any applicable supplementary rating information and supporting information, and obtains the commissioner's approval of the rate.

(e) If the commissioner requires an insurer to file the insurer's rates under this section, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

SECTION 2. The change in law made by Section 2251.151(a-1), Insurance Code, as added by this Act, applies only to an insurer that files a petition for judicial review under Subchapter D, Chapter 36, Insurance Code, on or after the effective date of this Act. An insurer that files a petition for judicial review before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

**HB 1314 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1314**, A bill to be entitled An Act relating to the regulation of water and sewer utility systems in certain counties; providing a civil penalty.

Representative Harless moved to concur in the senate amendments to **HB 1314**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1786): 138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent — Crownover; Eiland; Flores; McCall; McClendon; Moreno; Mowery; Oliveira.

**Senate Committee Substitute**

**CSHB 1314**, A bill to be entitled An Act relating to the regulation and financing of water and sewer utility systems in certain counties; providing a civil penalty.

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

SECTION 1. Section 412.016, Local Government Code, is amended to read as follows:

Sec. 412.016. COUNTY WATER AND SEWER SYSTEM. (a) A county may acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area of the county in the same

manner and under the same regulations as a municipality under Chapter 402. The county must comply with all provisions of Chapter 13, Water Code, that apply to a municipality. However, a county with a population of two [2.8] million or more and any adjoining county may, with the municipality's approval, serve an area within a municipality.

(b) To finance the water or sewer utility system, a county may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of two [2.8] million or more and any adjoining county may issue general obligation bonds with the approval of qualified voters.

(c) A county may acquire any interest in property necessary to operate a system authorized by this section through any means available to the county, including eminent domain. A county may not use eminent domain under this subsection to acquire property in a municipality. Provided, however, a county with a population of two [2.8] million or more and any adjoining county may, with the municipality's approval, use the power of eminent domain under this subsection to acquire property within a municipality.

SECTION 2. Subchapter B, Chapter 412, Local Government Code, is amended by adding Section 412.017 to read as follows:

Sec. 412.017. REGULATION OF WATER AND SEWER UTILITY IN POPULOUS COUNTIES. (a) In this section, "water or sewer utility system" means a water or sewer utility system that serves:

(1) an economically distressed area as defined by Section 15.001, Water Code; or

(2) an area listed on:

(A) the state registry by the Texas Commission on Environmental Quality under Subchapter F, Chapter 361, Health and Safety Code; or

(B) the National Priorities List by the federal Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(b) A county with a population of 3.3 million or more may by order:

(1) prohibit a person from installing an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code, or installing a water well, if the lot or parcel of land on which the on-site sewage disposal system or water well is to be installed has access to service from a water or sewer system; and

(2) prohibit a person from installing another water or sewer utility system to serve a lot or parcel of land within the area if the lot or parcel of land has access to service from a water or sewer utility system.

(c) A county that adopts an order under Subsection (b) may adopt the order only if the area that has access to service from a water or sewer utility system:

(1) is not served by another legally operating water or sewer utility system at the time the order is adopted; and

(2) was developed before September 1, 1987.

(d) A person who violates an order adopted under this section is liable to the county for a civil penalty of not more than \$1,000 for each violation. Each day a violation continues is a separate violation for purposes of assessing the civil penalty.

(e) A county may bring suit in a district court to restrain a violation or threatened violation of an order adopted under this section, recover a civil penalty, or both. The county is not required to give bond as a condition to issuing injunctive relief.

(f) Except as provided in Subsection (g), a county that is involved in selecting a water or sewer utility system and that adopts an order under Subsection (b) may adopt the order only if the county complies with Chapter 262 in selecting the water or sewer utility system.

(g) Section 262.024 does not apply to this section.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Geren.

### HB 2482 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Cook called up with senate amendments for consideration at this time,

**HB 2482**, A bill to be entitled An Act relating to the requirements regarding persons who service or maintain on-site sewage disposal systems.

Representative R. Cook moved to concur in the senate amendments to **HB 2482**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1787):  
137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg;

Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Eiland; Eissler; England; King, S.; McCall; Moreno; Oliveira; Woolley.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1787. I intended to vote no.

Bonnen

When Record No. 1787 was taken, I was in the house but away from my desk. I would have voted yes.

Woolley

### Senate Committee Substitute

**CSHB 2482**, A bill to be entitled An Act relating to the requirements regarding persons who service or maintain on-site sewage disposal systems; imposing an administrative penalty.

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

SECTION 1. Sections 366.0515(a) and (g), Health and Safety Code, are amended to read as follows:

(a) Except as provided by Subsection (g), an [Am] authorized agent or the commission may not condition a permit or the approval of a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence on the system's owner contracting for the maintenance of the system.

(g) The owner of a single-family residence shall maintain the system directly or through a maintenance contract. If an authorized agent or the commission determines that an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly has violated this chapter or a rule adopted or order or permit issued under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the violation, shall correct the violation or enter into a contract for the maintenance of the system. If before the third anniversary of the date of the determination the owner is determined to have committed another violation of this chapter or a rule adopted under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the subsequent violation, shall enter

into a contract for the maintenance of the system. An owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly and who violates this chapter or a rule adopted or order or permit issued under this chapter is also subject to an administrative penalty. The commission may recover the penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. Notwithstanding Section 7.052, Water Code, the amount of the penalty may not exceed \$100. [The commission shall adopt rules governing:

~~[(1) the training in system maintenance to be provided to an owner who elects to maintain the system directly; and~~

~~[(2) the maintenance of a system by the owner of the system.]~~

SECTION 2. Section 366.071, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may implement a program under Chapter 37, Water Code, to register persons who service or maintain on-site sewage disposal systems for compensation.

SECTION 3. Sections 366.0515(h), (i), (j), (n), and (o), Health and Safety Code, are repealed.

SECTION 4. (a) The changes in law made by this Act apply only to a violation committed on or after the effective date of this Act. For purposes of this section, a violation is committed before the effective date of this Act if any element of the violation occurs before that date.

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

SECTION 5. This Act takes effect September 1, 2007.

### **HB 2498 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2498**, A bill to be entitled An Act relating to hazardous duty pay for correctional officers employed by the Texas Department of Criminal Justice.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 2498**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1788): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen;

Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Castro; Chavez; Corte; Crownover; Hilderbran; Moreno; Oliveira; Veasey.

### STATEMENT OF VOTE

When Record No. 1788 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

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

Amend **HB 2498** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Subsection (a), Section 659.305, Government Code (page 1, lines 15-20), and substitute the following:

(a) Except as provided by Subsections ~~[Subsection]~~ (b) and (h), the amount of a full-time state employee's hazardous duty pay for a particular month is ~~the lesser of:~~

~~[(1)]~~ \$10 for each 12-month period of lifetime service credit accrued by the employee~~;~~ ~~or~~

~~[(2)]~~ \$300.

(2) In SECTION 1 of the bill, in amended Subsection (d), Section 659.305, Government Code (page 1, line 21), strike "(a)(1), ~~and]~~" and substitute "(a), ~~(a)(1) and]~~".

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 659.305(c), Government Code, is repealed.

### HB 2502 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2502**, A bill to be entitled An Act relating to the composition of the Jim Wells County Juvenile Board.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 2502**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1789): 138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Castro; Chavez; Corte; Crownover; Hilderbran; Moreno; Oliveira.

### STATEMENT OF VOTE

When Record No. 1789 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

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

Amend **HB 2502** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 152.2561(e) through (j), Human Resources Code, are amended to read as follows:

(e) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay each ~~the~~ juvenile board member ~~members~~ an annual salary of not less than \$4,800 ~~[\$1,200]~~, payable in equal monthly installments from any funds available to the county or to the juvenile board.

(f) The commissioners court shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's ~~[his]~~ duties. The commissioners court shall set the rate of reimbursement and shall pay the expenses from funds allocated or received from any source.

(g) The juvenile board shall appoint necessary juvenile probation department personnel ~~[with the advice and consent of the commissioners court]~~. The juvenile board may discharge the employees of the juvenile probation department ~~[with the advice and consent of the commissioners court]~~.

(h) The juvenile board shall provide each juvenile probation officer or juvenile probation department employee with an automobile or an automobile allowance for use of a personal automobile on official business.

(i) The juvenile board shall ~~[use the juvenile probation fund to]~~ pay ~~[as much of]~~ the salaries, allowances, and other necessary expenses from the juvenile probation budget to the extent of the state aid received ~~[as possible]~~. The commissioners court shall pay the remaining salaries, allowances, and other necessary expenses from the general fund or other available funds of the county.

(j) The juvenile board ~~[commissioners court]~~ shall set the annual rate of increase in the salaries of juvenile probation department personnel ~~[at the rate of increase given to other Wood County employees or to state employees]~~. If any portion of an employee's salary is to be paid from the general fund, ~~[the rates are different]~~, the commissioners court shall approve the salary as presented to the commissioners court by the chairman of the juvenile board. For purposes of this subsection, "salary" means only the fixed compensation paid to an employee and does not include health insurance, allowances, or any other benefit ~~[may choose one of the rates or choose a rate that is between the two rates. In choosing the rate, the commissioners court may consider any relevant factor, including the source of the funds, the duties and work load of the employees, and the effect on other county employees]~~.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Crownover on motion of Taylor.

### **HB 2564 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2564**, A bill to be entitled An Act relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.

Representative Hancock moved to concur in the senate amendments to **HB 2564**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1790):  
136 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Kolkhorst.

Absent — Castro; Chavez; Corte; England; Hartnett; Hilderbran; Moreno; Oliveira.

### STATEMENT OF VOTE

When Record No. 1790 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

#### **Senate Amendment No. 1 (Senate Committee Amendment No. 2)**

Amend **HB 2564** in SECTION 1 of the bill, by striking proposed Subsection (j), Section 552.275, Government Code (house engrossed version, page 3, line 26, through page 4, line 9), and relettering subsequent proposed subsections accordingly.

#### **Senate Amendment No. 2 (Senate Committee Amendment No. 3)**

Amend **HB 2564** in SECTION 1 of the bill, in added Section 552.275(m), Government Code (house engrossed version, page 4, line 23) by striking "an" and inserting "a publicly funded legal services".

#### **Senate Amendment No. 3 (Senate Floor Amendment No. 2)**

Amend **HB 2564** as follows:

In SECTION 1 of the bill, in Section 552.275, Government Code, (page 2, line 4) insert the following sentence after the sentence ending in "requested":

The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general under Section 552.262 (a) and (b).

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Gattis on motion of Giddings.

Turner on motion of Giddings.

### HB 2653 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2653**, A bill to be entitled An Act relating to the election and disqualification of emergency services commissioners in certain populous counties.

Representative Harless moved to concur in the senate amendments to **HB 2653**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1791): 137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — King, P.; McClendon; Moreno; Morrison; Oliveira.

**Senate Committee Substitute**

**CSHB 2653**, A bill to be entitled An Act relating to emergency services districts.

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

SECTION 1. Section 775.034, Health and Safety Code, is amended by adding Subsection (h) to read as follows:

(h) This section does not apply to a district located wholly in a county with a population of more than three million.

SECTION 2. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0345 to read as follows:

Sec. 775.0345. ELECTION OF BOARD IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) The governing body of a district consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (h), emergency services commissioners serve two-year terms.

(c) After a district is created, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(d) To be eligible to be a candidate for emergency services commissioner, a person must be at least 18 years of age and a resident of the district.

(e) A candidate for emergency services commissioner on an initial board must give the county clerk a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(f) The county clerk shall appoint an election judge to certify the results of the election.

(g) After the election is held, the county clerk or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

(h) The initial emergency services commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the year following the election.

(i) The board shall hold the general election for commissioner annually on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

(j) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it applies to a write-in candidate for a city office under that subchapter.

SECTION 3. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0355 to read as follows:

Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES COMMISSIONERS. (a) In this section, "emergency services organization" means:

- (1) a volunteer fire department;
- (2) a career or combination fire department;
- (3) a municipal fire department;
- (4) an emergency medical services organization under the jurisdiction of the Department of State Health Services;
- (5) any other agency under the jurisdiction of the state fire marshal's office; or
- (6) any other organization or corporation that governs an emergency services organization.

(b) A person is disqualified from serving as an emergency services commissioner if that person:

- (1) is related within the third degree of affinity or consanguinity to:
  - (A) a person providing professional services to the district;
  - (B) a commissioner of the same district; or
  - (C) a person who is an employee or volunteer of an emergency services organization providing emergency services to the district;
- (2) is an employee of a commissioner of the same district, attorney, or other person providing professional services to the district;
- (3) is serving as an attorney, consultant, or architect or in some other professional capacity for the district or an emergency services organization providing emergency services to the district; or
- (4) fails to maintain the qualifications required by law to serve as a commissioner.

(c) Any rights obtained by a third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of an emergency services commissioner to serve, provided that the third party had no knowledge, at the time the rights were obtained, of the fact that the commissioner was disqualified to serve.

SECTION 4. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0445 to read as follows:

Sec. 775.0445. VACANCY ON BOARD OF DISTRICT LOCATED IN ONE COUNTY. (a) Not later than the 90th day after a board vacancy for a district wholly located in one county occurs, the remaining board members shall appoint a person to fill the unexpired term.

- (b) A person appointed under this section must be eligible to serve under:
  - (1) Section 775.034, if the district is wholly located in a county with a population of three million or less; or

(2) Section 775.0345, if the district is located wholly in a county with a population of more than three million.

(c) For purposes of this section, a vacancy includes an office that is vacant because:

(1) a director was disqualified under Section 775.0355; or

(2) no candidate filed for election to the office.

SECTION 5. Section 775.076, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The board may issue bonds and notes as prescribed by this chapter to perform any of its powers.

(a-1) Before the board may issue bonds or notes authorized by this section, the commissioners court of each county in which the district is located must approve the issuance of the bonds or notes by a majority vote. This subsection does not apply to a district located wholly in a county with a population of more than three million,

SECTION 6. The heading to section 775.082, Health and Safety Code is amended to read as follows:

Sec. 775.082. AUDIT OF DISTRICT IN LESS POPULOUS COUNTIES.

SECTION 7. Section 775.082, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to a district located wholly in a county with a population of more than three million.

SECTION 8. Subchapter E, Chapter 775, Health and Safety Code, is amended by adding Section 775.0825 to read as follows:

Sec. 775.0825. AUDIT OF DISTRICT IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) A district shall prepare on or before July 1 of each year an audit of the district's fiscal accounts and records.

(c) The audit shall be performed and the report shall be prepared at the expense of the district.

(d) The audit shall be available for review and inspection at the administrative office of the district.

(e) A copy of the audit shall be filed with the clerk of the county commissioner's court within 30 days after receipt by the board.

SECTION 9. (a) The changes in law made by this Act do not affect the entitlement of a commissioner of a board of emergency services commissioners serving on the board immediately before the effective date of this Act to continue to carry out the board's functions for the remainder of the commissioner's term.

(b) This Act does not prohibit a person who is a commissioner on the effective date of this Act from running for election to the board of emergency services commissioners if the person has the qualifications required for a member under Section 775.0345, Health and Safety Code, as added by this Act.

(c) A person serving as an appointed member of a board of emergency services commissioners on the effective date of this Act shall continue to serve until the election and qualification of a new commissioner for that position.

(d) In 2008, the county judge of an emergency services district to which Section 775.0345, Health and Safety Code, as added by this Act, applies shall establish an election as required by that section to replace commissioners whose terms expire December 31, 2007.

(e) In 2009, the county judge shall repeat the procedures described by Subsection (d) of this section for the remaining appointed commissioners whose terms expire December 31, 2008.

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

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

Amend **CSHB 2653** (senate committee printing) as follows:

(1) In Section 3 of the bill, in the heading to added Section 775.0355, Health and Safety Code (page 2, line 2), between "COMMISSIONERS" and the period, insert "IN CERTAIN POPULOUS COUNTIES".

(2) In Section 3 of the bill, in added Section 775.0355, Health and Safety Code (page 2, between lines 12 and 13), insert a new Subsection (b) to read as follows:

(b) This section applies only to a district located wholly in a county with a population of more than three million.

(3) In Section 3 of the bill, in added Section 775.0355(b), Health and Safety Code (page 2, line 13), strike "(b)" and substitute "(c)".

(4) In Section 3 of the bill, in added Section 775.0355(c), Health and Safety Code (page 2, line 32), strike "(c)" and substitute "(d)".

(5) In Section 4 of the bill, strike added Section 775.0445, Health and Safety Code (page 2, lines 40 through 54), and substitute:

Sec. 775.0445. VACANCY ON BOARD OF DISTRICT LOCATED IN CERTAIN POPULOUS COUNTIES. (a) In this section, "vacancy" means a vacancy in the office of director that occurs for any reason, including an office that is vacant because:

(1) a director was disqualified under Section 775.0355; or

(2) no candidate filed for election to the office.

(b) This section applies only to a district located wholly in a county with a population of more than three million.

(c) Not later than the 90th day after a board vacancy occurs, the remaining board members shall appoint a person to fill the unexpired term.

(d) A person appointed under this section must be eligible to serve under Section 775.0345.

### **HB 3417 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3417**, A bill to be entitled An Act relating to the sales and use tax imposed by municipal crime control and prevention districts.

Representative Garcia moved to concur in the senate amendments to **HB 3417**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1792):  
132 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Alonzo; Gallego; Geren; Hochberg; Lucio; McReynolds; Moreno; Oliveira; Smith, W.; Van Arsdale.

### Senate Committee Substitute

**CSHB 3417**, A bill to be entitled An Act relating to the counties authorized to create a crime control and prevention district and to the sales and use tax imposed by municipal crime control and prevention districts.

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

SECTION 1. Section 363.051(a), Local Government Code, is amended to read as follows:

(a) The creation of a crime control and prevention district may be proposed under this chapter by a majority vote of the governing body of a:

(1) county:

(A) with a population of more than 130,000; or

(B) that:

(i) does not border the United Mexican States;

(ii) is adjacent to a county with a population of 500,000 or more that borders the United Mexican States; and

(iii) has a population of 5,000 or more; or

(2) municipality that is partially or wholly located in a county with a population of more than 5,000.

SECTION 2. Sections 363.055(a) and (c), Local Government Code, are amended to read as follows:

(a) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 321, Tax Code, or Subchapter B, Chapter 323, Tax Code, may be only:

- (1) one-eighth of one percent;
- (2) one-fourth of one percent;
- (3) three-eighths of one percent; or
- (4) one-half of one percent.

(c) A municipality that creates a district shall adopt a sales and use tax under Section 321.108 [~~323.105~~], Tax Code, for financing the operation of the district [~~in the same manner as a county under that section~~].

SECTION 3. Section 363.154(e), Local Government Code, is amended to read as follows:

(e) In a district created by a municipality, the board may spend the revenue derived from the sales and use tax distributed under Section 321.108 [~~323.105~~], Tax Code, only for a purpose authorized by Section 363.151.

SECTION 4. Section 363.302(c), Local Government Code, is amended to read as follows:

(c) If on the date that the district is dissolved the district has outstanding short-term or long-term liabilities, the board shall, not later than the 30th day after the date of the dissolution, adopt a resolution certifying each outstanding short-term and long-term liability. The political subdivision that created the district shall assume the outstanding short-term and long-term liabilities. The political subdivision shall collect the sales and use tax under Section 321.108 or 323.105, Tax Code, for the remainder of the calendar year and may by resolution of its governing body continue to collect the tax for an additional calendar year if the revenue from the tax is needed to retire liabilities of the district that were assumed by the political subdivision. The governing body shall notify the comptroller of this continuation not later than the 60th day before the date the tax would otherwise expire. Any tax collected after the liabilities have been retired shall be transferred or conveyed as provided by Subsection (a).

SECTION 5. Subchapter B, Chapter 321, Tax Code, is amended by adding Section 321.108 to read as follows:

Sec. 321.108. MUNICIPAL CRIME CONTROL AND PREVENTION DISTRICT TAX. (a) Subject to an election held in accordance with Chapter 363, Local Government Code, a municipality in which a crime control and prevention district is established shall adopt a sales and use tax in the area of the district for the purpose of financing the operation of the crime control and prevention district. The revenue from the tax may be used only for the purpose of financing the operation of the crime control and prevention district. The proposition for adopting a tax under this section and the proposition for creation of a crime control and prevention district shall be submitted at the same election.

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased in increments of one-eighth of one percent by order of the board of directors of the district.

(c) The governing body of the municipality that proposed the creation of the crime control and prevention district may call an election in the district on the question of decreasing the tax rate in increments of one-eighth of one percent in the district. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The decrease of the \_\_\_\_ Crime Control and Prevention District sales and use tax rate to \_\_\_\_ percent."

(d) The rate of a tax adopted for a district under this section may be increased in increments of one-eighth of one percent, not to exceed a total tax rate of one-half percent for financing the operation of the crime control and prevention district, by order of the board of directors of the crime control and prevention district if approved by a majority of the voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the \_\_\_\_ Crime Control and Prevention District sales and use tax rate to \_\_\_\_ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for another calendar quarter, and the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(e) The comptroller shall remit to the municipality amounts collected at the rate imposed under this section as part of the regular allocation of municipal tax revenue collected by the comptroller if the district is composed of the entire municipality. The comptroller shall, if the district is composed of an area less than the entire municipality, remit that amount to the district. Retailers may not be required to use allocation and reporting procedures in the collection of taxes under this section that are different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a municipality under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a municipality under a sales or use tax authorized by another section of this chapter is not taxable under this section.

(f) If, in a municipality in which a crime control and prevention district is composed of the whole municipality, a municipal sales and use tax or a municipal sales and use tax rate increase for the purpose of financing a crime control and prevention district is approved, the municipality is responsible for distributing to the district that portion of the municipal sales and use tax revenue received from the comptroller that is to be used for the purposes of financing the crime control and prevention district. Not later than the 10th day after the date the municipality receives money under this section from the comptroller, the municipality shall make the distribution in the proportion that the crime control and prevention portion of the tax rate bears to the total sales and use tax rate of the municipality.

The amounts distributed to a crime control and prevention district are not considered to be additional municipal sales and use tax revenue for the purpose of property tax reduction and computation of the municipal tax rate under Section 26.041.

(g) For purposes of the tax imposed under this section, a reference in this chapter to the municipality as the territory in which the tax or an incident of the tax applies means only the territory located in the crime control and prevention district, if that district is composed of an area less than an entire municipality.

(h) The comptroller may adopt rules and the governing body of the municipality may adopt orders to administer this section.

SECTION 6. (a) In a crime control and prevention district created by a municipality before the effective date of this Act, an item, transaction, or service that is taxable in the municipality under a sales or use tax authorized by Chapter 321, Tax Code, is taxable under Section 321.108, Tax Code, as added by this Act, for the district, and an item, transaction, or service that is not taxable in the municipality under a sales or use tax authorized by Chapter 321, Tax Code, is not taxable under Section 321.108, Tax Code, as added by this Act, for the district.

(b) The comptroller shall implement any change necessary as a result of the change in law made by this Act on or before January 1, 2008.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 3518 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3518.** A bill to be entitled An Act relating to the extension of, addition to, or modification of existing restrictive covenants in certain residential subdivisions.

Representative Creighton moved to concur in the senate amendments to **HB 3518.**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1793): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones;

Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Dunnam; Moreno; Oliveira; Van Arsdale.

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

Amend **HB 3518** by adding an appropriately numbered SECTION to the bill to read as follows, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. "This Act takes effect only if **SB 979**, Acts of the 80th Legislature, Regular Session 2007, does not become law. If that bill becomes law, this Act has no effect."

### **HB 1250 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative C. Howard called up with senate amendments for consideration at this time,

**HB 1250**, A bill to be entitled An Act relating to prohibiting discrimination based on a student's secondary school in awarding certain financial aid for higher education.

Representative C. Howard moved to concur in the senate amendments to **HB 1250**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1794):  
135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory

Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Dutton; Gallego; Hamilton; Hochberg; King, S.; Moreno; Oliveira.

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

Amend **HB 1250** (Senate Committee Printing) by:

(1) On page 1, lines 14 through 49, strike SECTION 1 of the bill and renumber accordingly.

(2) On page 2, line 19, strike "Sections 56.304(a) and" substitute with "Section".

### **HB 2563 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2563**, A bill to be entitled An Act relating to the powers and duties of the boards of trustees and superintendents of independent school districts and of regional education service centers.

Representative Hancock moved to concur in the senate amendments to **HB 2563**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1795): 132 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez;

Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Coleman; Gallego; Hochberg; Martinez Fischer; Moreno; Mowery; Oliveira; Smithee; Van Arsdale; Veasey.

### STATEMENT OF VOTE

When Record No. 1795 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

### Senate Committee Substitute

**CSHB 2563**, A bill to be entitled An Act relating to the powers and duties of the boards of trustees and superintendents of independent school districts and of regional education service centers.

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

SECTION 1. Section 11.051, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) An independent school district is governed by a board of trustees who, as a body corporate, shall:

(1) oversee the management of the district; and  
 (2) ensure that the superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of district operations.

(a-1) Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting. The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting.

SECTION 2. Subchapter C, Chapter 11, Education Code, is amended by adding Section 11.0621 to read as follows:

Sec. 11.0621. MEETINGS. The minutes, certified agenda, or recording, as applicable, of a regular or special meeting of the board of trustees must reflect each member's attendance at or absence from the meeting. The minutes or tape recording of an open meeting must be accessible to the public in accordance with Section 551.022, Government Code.

SECTION 3. Subchapter D, Chapter 11, Education Code, is amended by adding Sections 11.1511 and 11.1512 to read as follows:

Sec. 11.1511. SPECIFIC POWERS AND DUTIES OF BOARD. (a) In addition to powers and duties under Section 11.151 or other law, the board of trustees of an independent school district has the powers and duties provided by Subsection (b).

(b) The board shall:

(1) seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community;

(2) adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;

(3) establish performance goals for the district concerning:

(A) the academic and fiscal performance indicators under Subchapters C and I, Chapter 39, respectively; and

(B) any performance indicators adopted by the district;

(4) ensure that the superintendent:

(A) is accountable for achieving performance results;

(B) recognizes performance accomplishments; and

(C) takes action as necessary to meet performance goals;

(5) adopt a policy to establish a district- and campus-level planning and decision-making process as required under Section 11.251;

(6) publish an annual educational performance report as required under Section 39.053;

(7) adopt an annual budget for the district as required under Section 44.004;

(8) adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;

(9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;

(10) ensure that district fiscal accounts are audited annually as required under Section 44.008;

(11) publish an end-of-year financial report for distribution to the community;

(12) conduct elections as required by law;

(13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint;

(14) make decisions relating to terminating the employment of district employees employed under a contract to which Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies; and

(15) carry out other powers and duties as provided by this code or other law.

(c) The board may:

(1) issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Sections 45.001 and 45.003;

(2) levy, assess, and collect an annual ad valorem tax for maintenance and operation of the district as authorized under Sections 45.002 and 45.003;

(3) employ a person to assess or collect the district's taxes as authorized under Section 45.231; and

(4) enter into contracts as authorized under this code or other law and delegate contractual authority to the superintendent as appropriate.

Sec. 11.1512. COLLABORATION BETWEEN BOARD AND SUPERINTENDENT. (a) In relation to the superintendent of the school district, the board of trustees of the district has the powers and duties specified by Sections 11.1511(b) and (c). The superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board.

(b) The board of trustees and the superintendent shall work together to:

(1) advocate for the high achievement of all district students;

(2) create and support connections with community organizations to provide community-wide support for the high achievement of all district students;

(3) provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plan;

(4) establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;

(5) support the professional development of principals, teachers, and other staff; and

(6) periodically evaluate board and superintendent leadership, governance, and teamwork.

SECTION 4. Section 11.163, Education Code, is redesignated as Section 11.1513, Education Code, and amended to read as follows:

Sec. 11.1513 [~~11.163~~]. EMPLOYMENT POLICY. (a) The board of trustees of each independent school district shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that:

(1) the board employs and evaluates the superintendent;

(2) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; and

(3) [~~2~~] each principal must approve each teacher or staff appointment to the principal's campus as provided by Section 11.202.

(b) The board of trustees may accept or reject the superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's meeting, as required under Section 551.021, Government Code, in the certified agenda or tape recording required under Section 551.103, Government Code, or in the recording

required under Section 551.125 or 551.127, Government Code, as applicable. If the board rejects the superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation.

(c) The employment policy may:

- (1) specify the terms of employment with the district;
- (2) delegate to the superintendent the authority to determine the terms of employment with the district; or
- (3) include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district.

(d) The employment policy must provide that not later than the 10th school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Section 21.003, other than a position that affects the safety and security of students as determined by the board of trustees, the district must provide to each current district employee:

- (1) notice of the position by posting the position on:
  - (A) a bulletin board at:
    - (i) a place convenient to the public in the district's central administrative office; and
    - (ii) the central administrative office of each campus in the district during any time the office is open; and
  - (B) the district's Internet website, if the district has a website; and
- (2) a reasonable opportunity to apply for the position.

(e) If, during the school year, the district must fill a vacant position held by a teacher, as defined by Section 21.201, in less than 10 school days, the district:

- (1) must provide notice of the position in the manner described by Subsection (d)(1) as soon as possible after the vacancy occurs;
- (2) is not required to provide the notice for 10 school days before filling the position; and
- (3) is not required to comply with Subsection (d)(2).

(f) If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:

(1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made under that delegation of authority; and

(2) each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.

(g) Subsection (f) does not apply to a school district that is located:

- (1) wholly in a county with a population of less than 35,000; or
- (2) in more than one county, if the county in which the largest portion of the district territory is located has a population of less than 35,000.

(h) For purposes of Subsection (f), a person hired by a school district before September 1, 2007, is considered to have been in continuous employment as provided by Section 573.062(a), Government Code, and is not prohibited from continuing employment with the district subject to the restrictions of Section 573.062(b), Government Code.

(i) If before September 1, 2007, a noncontract employee of the district was entitled to pursue a grievance to the board relating to the termination of the employee, this section may not be construed to interfere with or infringe on the right of the employee to pursue such a grievance on or after that date.

(j) The employment policy must provide each school district employee with the right to present grievances to the district board of trustees.

SECTION 5. Section 11.159(b), Education Code, is amended to read as follows:

(b) A trustee must complete any training required by the State Board of Education. The minutes of the last regular meeting of the board of trustees held during a calendar year must reflect whether each trustee has met or is delinquent in meeting the training required to be completed as of the date of the meeting.

SECTION 6. Section 11.201(d), Education Code, is amended to read as follows:

(d) The duties of the superintendent include:

(1) assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;

(2) except as provided by Section 11.202, assuming administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district other than the superintendent;

(3) overseeing compliance with the standards for school facilities established by the commissioner under Section 46.008 [making recommendations regarding the selection of personnel of the district other than the superintendent, as provided by Section 11.163];

(4) initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract;

(5) managing the day-to-day operations of the district as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations;

(6) preparing and submitting to the board of trustees a proposed budget as provided by Section 44.002 and rules adopted under that section, and administering the budget;

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;

(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

(9) providing leadership for the attainment and, if necessary, improvement of student performance in the district based on the indicators adopted under Section 39.051 and other indicators adopted by the State Board of Education or the district's board of trustees;

(10) organizing the district's central administration; ~~and~~

(11) consulting with the district-level committee as required under Section 11.252(f);

(12) ensuring:

(A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and

(B) adoption and enforcement of other student disciplinary rules and procedures as necessary;

(13) submitting reports as required by state or federal law, rule, or regulation;

(14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and

(15) performing any other duties assigned by action of the board of trustees.

SECTION 7. Subchapter A, Chapter 8, Education Code, is amended by adding Section 8.011 to read as follows:

Sec. 8.011. NEPOTISM PROHIBITION. For purposes of all employees of each regional education service center, the executive director and each member of the board of directors are public officials subject to Chapter 573, Government Code.

SECTION 8. This Act takes effect September 1, 2007.

**HB 2093 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2093**, A bill to be entitled An Act relating to the enforcement of motor carrier registration and overweight and oversize permits.

Representative Hill moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2093**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2093**: Hill, chair; Deshotel, Harper-Brown, Krusee, and Phillips.

**HB 2714 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2714**, A bill to be entitled An Act relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

Representative Bonnen moved to concur in the senate amendments to **HB 2714**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1796):  
137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Mallory Caraway; Merritt; Moreno; Oliveira; Vaught.

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

Amend **HB 2714** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 361, Health and Safety Code, is amended by adding Subchapter Y to read as follows:

#### SUBCHAPTER Y. COMPUTER EQUIPMENT RECYCLING PROGRAM

Sec. 361.951. SHORT TITLE. This subchapter may be cited as the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act.

Sec. 361.952. DEFINITIONS. In this subchapter:

(1) "Brand" means the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product.

(2) "Computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

(3) "Consumer" means an individual who uses computer equipment that is purchased primarily for personal or home business use.

(4) "Manufacturer" means a person:

(A) who manufactures or manufactured computer equipment under a brand that:

(i) the person owns or owned; or

(ii) the person is or was licensed to use, other than under a license to manufacture computer equipment for delivery exclusively to or at the order of the licensor;

(B) who sells or sold computer equipment manufactured by others under a brand that:

(i) the person owns or owned; or

(ii) the person is or was licensed to use, other than under a license to manufacture computer equipment for delivery exclusively to or at the order of the licensor;

(C) who manufactures or manufactured computer equipment without affixing a brand;

(D) who manufactures or manufactured computer equipment to which the person affixes or affixed a brand that:

(i) the person does not or has not owned; or

(ii) the person is not or was not licensed to use; or

(E) who imports or imported computer equipment manufactured outside the United States into the United States unless at the time of importation the company or licensee that sells or sold the computer equipment to the importer has or had assets or a presence in the United States sufficient to be considered the manufacturer.

(5) "Television" means any telecommunication system device that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

Sec. 361.953. LEGISLATIVE FINDINGS AND PURPOSE.

(a) Computers and related display devices are critical elements to the strength and growth of this state's economic prosperity and quality of life. Many of those products can be refurbished and reused, and many contain valuable components that can be recycled.

(b) The purpose of this subchapter is to establish a comprehensive, convenient, and environmentally sound program for the collection, recycling, and reuse of computer equipment that has reached the end of its useful life. The program is based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and the government of this state.

Sec. 361.954. APPLICABILITY. (a) The collection, recycling, and reuse provisions of this subchapter apply to computer equipment used and returned to the manufacturer by a consumer in this state and do not impose any obligation on an owner or operator of a solid waste facility.

(b) This subchapter does not apply to:

(1) a television, any part of a motor vehicle, a personal digital assistant, or a telephone;

(2) a consumer's lease of computer equipment or a consumer's use of computer equipment under a lease agreement; or

(3) the sale or lease of computer equipment to an entity when the manufacturer and the entity enter into a contract that effectively addresses the collection, recycling, and reuse of computer equipment that has reached the end of its useful life.

Sec. 361.955. MANUFACTURER RESPONSIBILITIES. (a) Before a manufacturer may offer computer equipment for sale in this state, the manufacturer must:

(1) adopt and implement a recovery plan; and

(2) affix a permanent, readily visible label to the computer equipment with the manufacturer's brand.

(b) The recovery plan must enable a consumer to recycle computer equipment without paying a separate fee at the time of recycling and must include provisions for:

(1) the manufacturer's collection from a consumer of any computer equipment that has reached the end of its useful life and is labeled with the manufacturer's brand; and

(2) recycling or reuse of computer equipment collected under Subdivision (1).

(c) The collection of computer equipment provided under the recovery plan must be:

(1) reasonably convenient and available to consumers in this state; and

(2) designed to meet the collection needs of consumers in this state.

(d) Examples of collection methods that alone or combined meet the convenience requirements of this section include:

(1) a system by which the manufacturer or the manufacturer's designee offers the consumer a system for returning computer equipment by mail;

(2) a system using a physical collection site that the manufacturer or the manufacturer's designee keeps open and staffed and to which the consumer may return computer equipment; and

(3) a system using a collection event held by the manufacturer or the manufacturer's designee at which the consumer may return computer equipment.

(e) Collection services under this section may use existing collection and consolidation infrastructure for handling computer equipment and may include electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, and other suitable operations.

(f) The recovery plan must include information for the consumer on how and where to return the manufacturer's computer equipment. The manufacturer:

(1) shall include collection, recycling, and reuse information on the manufacturer's publicly available Internet site;

(2) shall provide collection, recycling, and reuse information to the commission; and

(3) may include collection, recycling, and reuse information in the packaging for or in other materials that accompany the manufacturer's computer equipment when the equipment is sold.

(g) Information about collection, recycling, and reuse on a manufacturer's publicly available Internet site does not constitute a determination by the commission that the manufacturer's recovery plan or actual practices are in compliance with this subchapter or other law.

(h) Each manufacturer shall submit a report to the commission not later than January 31 of each year that includes:

(1) the weight of computer equipment collected, recycled, and reused during the preceding calendar year; and

(2) documentation verifying the collection, recycling, and reuse of that computer equipment in a manner that complies with Section 361.964 regarding sound environmental management.

(i) If more than one person is a manufacturer of a certain brand of computer equipment as defined by Section 361.952, any of those persons may assume responsibility for and satisfy the obligations of a manufacturer under this subchapter for that brand. If none of those persons assumes responsibility or satisfies the obligations of a manufacturer for the computer equipment of that brand, the commission may consider any of those persons to be the responsible manufacturer for purposes of this subchapter.

(j) The obligations under this subchapter of a manufacturer who manufactures or manufactured computer equipment, or sells or sold computer equipment manufactured by others, under a brand that was previously used by a different person in the manufacture of the computer equipment extends to all computer equipment bearing that brand regardless of its date of manufacture.

Sec. 361.956. RETAILER RESPONSIBILITY. (a) A person who is a retailer of computer equipment may not sell or offer to sell new computer equipment in this state unless the equipment is labeled with the manufacturer's label and the manufacturer is included on the commission's list of manufacturers that have recovery plans.

(b) Retailers can go to the commission's Internet site as outlined in Section 361.958 and view all manufacturers that are listed as having registered a compliant collection program. Covered electronic products from manufacturers on that list may be sold in or into the State of Texas.

(c) A retailer is not required to collect computer equipment for recycling or reuse under this subchapter.

Sec. 361.957. LIABILITY. (a) A manufacturer or retailer of computer equipment is not liable in any way for information in any form that a consumer leaves on computer equipment that is collected, recycled, or reused under this subchapter.

(b) This subchapter does not exempt a person from liability under other law.

Sec. 361.958. COMMISSION'S EDUCATION RESPONSIBILITIES.

(a) The commission shall educate consumers regarding the collection, recycling, and reuse of computer equipment.

(b) The commission shall host or designate another person to host an Internet site providing consumers with information about the recycling and reuse of computer equipment, including best management practices and information about and links to information on:

(1) manufacturers' collection, recycling, and reuse programs, including manufacturers' recovery plans; and

(2) computer equipment collection events, collection sites, and community computer equipment recycling and reuse programs.

Sec. 361.959. ENFORCEMENT. (a) The commission may conduct audits and inspections to determine compliance with this subchapter.

(b) The commission and the attorney general, as appropriate, shall enforce this subchapter and, except as provided by Subsections (d) and (e), take enforcement action against any manufacturer, retailer, or person who recycles or reuses computer equipment for failure to comply with this subchapter.

(c) The attorney general may file suit under Section 7.032, Water Code, to enjoin an activity related to the sale of computer equipment in violation of this subchapter.

(d) The commission shall issue a warning notice to a person on the person's first violation of this subchapter. The person must comply with this subchapter not later than the 60th day after the date the warning notice is issued.

(e) A retailer who receives a warning notice from the commission that the retailer's inventory violates this subchapter because it includes computer equipment from a manufacturer that has not submitted the recovery plan required by Section 361.955 must bring the inventory into compliance with this subchapter not later than the 60th day after the date the warning notice is issued.

Sec. 361.960. FINANCIAL AND PROPRIETARY INFORMATION. Financial or proprietary information submitted to the commission under this subchapter is exempt from public disclosure under Chapter 552, Government Code.

Sec. 361.961. ANNUAL REPORT TO LEGISLATURE. The commission shall compile information from manufacturers and issue an electronic report to the committee in each house of the legislature having primary jurisdiction over environmental matters not later than March 1 of each year.

Sec. 361.962. FEES NOT AUTHORIZED. This subchapter does not authorize the commission to impose a fee, including a recycling fee or registration fee, on a consumer, manufacturer, retailer, or person who recycles or reuses computer equipment.

Sec. 361.963. CONSUMER RESPONSIBILITIES. (a) A consumer is responsible for any information in any form left on the consumer's computer equipment that is collected, recycled, or reused.

(b) A consumer is encouraged to learn about recommended methods for recycling and reuse of computer equipment that has reached the end of its useful life by visiting the commission's and manufacturers' Internet sites.

Sec. 361.964. SOUND ENVIRONMENTAL MANAGEMENT. (a) All computer equipment collected under this subchapter must be recycled or reused in a manner that complies with federal, state, and local law.

(b) The commission shall adopt as standards for recycling or reuse of computer equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards from a comparable nationally recognized organization.

Sec. 361.965. STATE PROCUREMENT REQUIREMENTS. (a) In this section, "state agency" has the meaning assigned by Section 2052.101, Government Code.

(b) A person who submits a bid for a contract with a state agency for the purchase or lease of computer equipment must be in compliance with this subchapter.

(c) A state agency that purchases or leases computer equipment shall require each prospective bidder to certify the bidder's compliance with this subchapter. Failure to provide that certification renders the prospective bidder ineligible to participate in the bidding.

(d) In considering bids for a contract for computer equipment, in addition to any other preferences provided under other laws of this state, the state shall give special preference to a manufacturer that has a program to recycle the computer equipment of other manufacturers, including collection events and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand.

(e) The Texas Building and Procurement Commission and the Department of Information Resources shall adopt rules to implement this section.

Sec. 361.966. FEDERAL PREEMPTION; EXPIRATION. (a) If federal law establishes a national program for the collection and recycling of computer equipment and the commission determines that the federal law substantially meets the purposes of this subchapter, the commission may adopt an agency statement that interprets the federal law as preemptive of this subchapter.

(b) This subchapter expires on the date the commission issues a statement under this section.

SECTION 2. Section 7.052, Water Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) The amount of the penalty assessed against a manufacturer that does not label its computer equipment or adopt and implement a recovery plan as required by Section 361.955, Health and Safety Code, may not exceed \$10,000 for the second violation or \$25,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y, Chapter 361, Health and Safety Code.

(b-2) Except as provided by Subsection (b-1), the amount of the penalty for a violation of Subchapter Y, Chapter 361, Health and Safety Code, may not exceed \$1,000 for the second violation or \$2,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y, Chapter 361, Health and Safety Code.

SECTION 3. Section 7.069, Water Code, is amended to read as follows:

Sec. 7.069. DISPOSITION OF PENALTY. (a) Except as provided by Subsection (b), a [A] penalty collected under this subchapter shall be deposited to the credit of the general revenue fund.

(b) A penalty collected under Section 7.052(b-1) or (b-2) shall be paid to the commission and deposited to the credit of the waste management account.

SECTION 4. (a) The Texas Commission on Environmental Quality shall adopt any rules required to implement this Act not later than May 1, 2008.

(b) This Act may not be enforced before September 1, 2008.

(c) The reports required under Sections 361.955 and 361.961, Health and Safety Code, as added by this Act, are not required to be prepared or submitted for the first time before the dates specified by those sections in 2010.

(d) Notwithstanding the 60-day limit under Section 361.959(d) or (e), Health and Safety Code, as added by this Act, a retailer may sell any inventory accrued before the effective date of this Act without incurring a penalty.

SECTION 5. This Act takes effect September 1, 2007.

**HB 2814 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2814**, A bill to be entitled An Act relating to a pilot project for language immersion in English and another language in certain school districts and charter schools.

Representative Eissler moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2814**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2814**: Eissler, chair; Delisi, Patrick, Zedler, and Hochberg.

**HB 1481 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1481**, A bill to be entitled An Act relating to standing for certain individuals to file a suit affecting the parent-child relationship.

Representative Castro moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1481**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1481**: Castro, chair; Rodriguez, Chavez, Gattis, and Riddle.

**HB 2823 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2823**, A bill to be entitled An Act relating to provisional voting by a person who applied for an early voting ballot by mail.

Representative Bohac moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2823**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2823**: Bohac, chair; Berman, C. Howard, Anchia, and Farias.

**HB 2864 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Harper-Brown called up with senate amendments for consideration at this time,

**HB 2864**, A bill to be entitled An Act relating to a pilot program to provide supplemental technology-based instruction to students in rural school districts.

Representative Harper-Brown moved to concur in the senate amendments to **HB 2864**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1797): 129 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla;

Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Thompson; Truitt; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Coleman; Deshotel; Dunnam; Heflin; Hochberg; Martinez; Moreno; Oliveira; Pierson; Rose; Swinford; Van Arsdale.

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

Amend **HB 2864** in Section 1 of the bill, in added Section 29.919, Education Code (Senate committee printing, page 1, lines 62 through 64), by striking added Subsection (f) and substituting the following:

(f) A campus participating in the program must provide students with individual access to technology-based supplemental instruction for at least 10 hours each week.

### **HB 3496 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3496**, A bill to be entitled An Act relating to the deadlines for the delivery or filing of certain ad valorem tax notices.

Representative Otto moved to concur in the senate amendments to **HB 3496**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1798):  
135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter;

Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Dunnam; Gallego; Hochberg; Laubenberg; Moreno; Oliveira; Orr.

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

Amend **HB 3496** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 41.411(c), Tax Code, is amended to read as follows:

(c) A property owner who protests as provided by this section must comply with the payment requirements of Section 42.08 or the property owner [he] forfeits the property owner's [his] right to a final determination of the [his] protest. The delinquency date for purposes of Section 42.08(b) for the taxes on the property subject to a protest under this section is postponed to the 125th day after the date that one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(c-3).

(b) Section 41.44, Tax Code, is amended by adding Subsection (c-3) to read as follows:

(c-3) Notwithstanding Subsection (c), a property owner who files a protest under Section 41.411 on or after the date the taxes on the property to which the notice applies become delinquent, but not later than the 125th day after the property owner, in the protest filed, claims to have first received written notice of the taxes in question, is entitled to a hearing solely on the issue of whether one or more taxing units timely delivered a tax bill. If at the hearing the appraisal review board determines that all of the taxing units failed to timely deliver a tax bill, the board shall determine the date on which at least one taxing unit first delivered written notice of the taxes in question, and for the purposes of this section the delinquency date is postponed to the 125th day after that date.

(c) The change in law made by this section applies only to an ad valorem tax protest filed on or after the effective date of this Act. An ad valorem tax protest filed before the effective date of this Act is governed by the law in effect at the time the protest was filed, and the former law is continued in effect for that purpose.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 3496** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 31.01, Tax Code, is amended by adding Subsection (d-2) to read as follows:

(d-2) This subsection applies only to a school district and only in connection with taxes imposed by the district in 2007. This subsection expires January 1, 2008. In addition to any other information required by this section, the tax bill or separate statement shall separately state:

(1) the amount of tax that would be imposed by applying the district's maintenance and operations rate for the 2005 tax year to current total value for 2007;

(2) the amount of tax that would be imposed by applying the district's maintenance and operations rate for the 2007 tax year to current total value for 2007; and

(3) the amount, if any, by which the amount calculated under Subdivision (1) exceeds the amount calculated under Subdivision (2), which must be labeled "Estimate of school district maintenance and operations property tax savings attributable to **HB 1**, Acts of the 79th Legislature, 3rd Called Session, 2006, and appropriations of state funds by the 80th Legislature".

**HB 2935 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2935**, A bill to be entitled An Act relating to the regulation of cigarettes; providing a penalty.

Representative Morrison moved to concur in the senate amendments to **HB 2935**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1799):  
131 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller;

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

Nays — Bonnen; Crabb; Harper-Brown; Riddle.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Driver; Elkins; Haggerty; Krusee; Moreno; Oliveira; Van Arsdale.

### Senate Committee Substitute

**CSHB 2935**, A bill to be entitled An Act relating to the regulation of cigarettes; providing a penalty.

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

SECTION 1. Subtitle C, Title 9, Health and Safety Code, is amended by adding Chapter 796 to read as follows:

#### CHAPTER 796. CIGARETTE FIRE SAFETY STANDARDS

Sec. 796.001. DEFINITIONS. In this chapter:

(1) "Agent" means a person licensed by the comptroller to purchase and affix adhesive or meter stamps on packages of cigarettes.

(2) "Cigarette" means a roll for smoking:

(A) that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; or

(B) that is wrapped in any substance containing tobacco that, because of the roll's appearance, the type of tobacco used in the filler, or the roll's packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette.

(3) "Manufacturer" means:

(A) a person that manufactures or otherwise produces cigarettes for sale in this state, including cigarettes intended to be sold through an importer; or

(B) the first purchaser that intends to resell in this state cigarettes manufactured anywhere that the original manufacturer does not intend to be sold in this state.

(4) "Retailer" means a person, other than a wholesale dealer, engaged in selling cigarettes or tobacco products.

(5) "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means or any agreement. The term includes, in addition to sales using cash or credit, the giving of a cigarette as a sample, prize, or gift and the exchange of a cigarette for any consideration other than money.

(6) "Sell" means to sell or to offer or agree to sell.

(7) "Wholesale dealer" means a person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, including a person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in premises owned or occupied by another person.

Sec. 796.002. REQUIREMENTS FOR SALE OF CIGARETTE. A cigarette may not be sold or offered for sale in this state unless:

(1) the cigarette has been tested in accordance with Section 796.003;  
(2) the cigarette meets the performance standard under Section 796.003;

(3) a written certification has been filed by the manufacturer with the state fire marshal in accordance with Section 796.005; and

(4) the cigarette has been marked in accordance with Section 796.006.

Sec. 796.003. TESTING. (a) A manufacturer of cigarettes shall ensure that tests on cigarettes are conducted:

(1) in accordance with Standard Test Method for Measuring the Ignition Strength of Cigarettes, E2187-04, by the American Society of Testing and Materials, as that standard existed on January 1, 2007;

(2) on 10 layers of filter paper; and

(3) in a complete test trial of 40 replica tests.

(b) Not more than 25 percent of the cigarettes tested in a test trial in accordance with this section may exhibit full-length burns.

(c) The performance standard required by this section shall only be applied to a complete test trial.

(d) A written certification shall be based on testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization, or another comparable accreditation standard required by the state fire marshal.

(e) A laboratory testing in accordance with this section shall implement a quality control and quality assurance program to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. The program must include a procedure to determine the repeatability of the testing results. The repeatability value may not be greater than 0.19. For purposes of this subsection, "repeatability value" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

(f) The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes on finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in Subsection (b).

(g) A cigarette submitted for testing that uses lowered permeability bands in the cigarette paper to comply with the performance standard under this section must have at least two nominally identical bands on the paper surrounding the tobacco column and at least one complete band not less than 15 millimeters from the lighting end of the cigarette. A cigarette on which the bands are positioned by

design must have at least two bands located not less than 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column or 10 millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(h) This section does not require additional testing if a cigarette is tested in a manner that is consistent with this chapter for any other purpose.

(i) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required under this section shall be conducted in accordance with this section.

Sec. 796.004. ALTERNATIVE TEST METHODS. (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with Section 796.003 shall propose a test method and performance standard for the cigarette to the state fire marshal. If the state fire marshal determines that the performance standard proposed by the manufacturer is equivalent to the performance standard under Section 796.003, the manufacturer may use the proposed test method.

(b) Unless the state fire marshal demonstrates a reasonable basis why an alternative test should not be accepted under this chapter, the state fire marshal shall authorize a manufacturer to employ the alternative test method and performance standard to certify a cigarette for sale in this state if the state fire marshal:

(1) determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter; and

(2) finds that the officials responsible for implementing those requirements have approved an alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section.

Sec. 796.005. CERTIFICATION. (a) Before a cigarette may be sold or offered for sale in this state, the cigarette's manufacturer must certify in writing to the state fire marshal that the cigarette has been tested in accordance with and meets the performance standard in Section 796.003 or 796.004.

(b) A certification filed under this section must include the following information:

(1) brand or trade name on the package;

(2) style, such as light or ultra light;

(3) length in millimeters;

(4) circumference in millimeters;

(5) flavor, such as menthol or chocolate, if applicable;

(6) filter or nonfilter;

(7) package description, such as soft pack or box;

(8) marking approved in accordance with Section 796.006;

(9) the name, address, and telephone number of the laboratory, if different from the manufacturer that conducted the test; and

(10) the date that the testing occurred.

(c) The state fire marshal shall retain a copy of a certification and provide a copy to the comptroller to ensure compliance with this chapter.

(d) A cigarette certified under this section shall be recertified every three years.

(e) For each cigarette included in a certification, a manufacturer shall pay to the state fire marshal a fee in the amount of \$250.

(f) A cigarette certified under this section that is altered by the manufacturer in a way likely to alter its compliance with the reduced cigarette ignition propensity standards required by this chapter may not be sold or offered for sale in this state unless the manufacturer retests the cigarette in accordance with Section 796.003 or 796.004 and maintains the records required by Section 796.007.

Sec. 796.006. MARKING OF PACKAGE. (a) A manufacturer shall mark, in eight-point or larger type, cigarettes certified by the manufacturer in accordance with Section 796.005 to indicate compliance with the requirements of Section 796.003. The marking must consist of:

(1) modification of the product Universal Product Code to include a visible mark printed at or around the area of the Universal Product Code and permanently stamped, engraved, embossed, or printed in conjunction with the Universal Product Code;

(2) a visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) other printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.

(b) A manufacturer shall present its proposed marking to the state fire marshal for approval. Proposed markings are considered approved if the state fire marshal fails to disapprove the proposed markings on or before the 10th business day after the date the proposed markings are received. The state fire marshal must approve a marking:

(1) in use and approved for sale in another state; or

(2) with the letters "FSC" for Fire Standards Compliant appearing in eight-point or larger type and permanently printed, stamped, engraved, or embossed on the package at or near the Universal Product Code.

(c) A manufacturer shall use only one type of marking and shall apply the marking uniformly to all packages, including packs, cartons, and cases, and brands marketed by the manufacturer in this state.

(d) A manufacturer may not modify its approved marking unless the state fire marshal has approved the modification.

(e) A manufacturer shall provide sufficient copies of an illustration of the package marking to a wholesale dealer and agent to which the manufacturer sells cigarettes and provide sufficient copies of an illustration of the package marking used by the manufacturer under this section for each retailer to which the wholesale dealers or agents will sell cigarettes. A wholesale dealer and an agent shall provide a copy of package markings received from a manufacturer to a retail dealer to which the wholesale dealer or agent sells cigarettes. A wholesale dealer,

agent, and retail dealer shall permit the state fire marshal, the comptroller, and the attorney general to inspect markings of cigarette packaging marked in accordance with this section.

Sec. 796.007. MANUFACTURER RECORDS AND REPORTING. (a) A manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for the previous three years and shall make copies of the reports available to the state fire marshal on the state fire marshal's written request.

(b) A manufacturer that fails to make copies of the reports available not later than 60 days after the date the manufacturer receives a written request shall be subject to a civil penalty, imposed as provided by Section 796.010, in an amount not to exceed \$10,000 per violation. Each day that the manufacturer does not make the copies available is a separate violation.

Sec. 796.008. RULES. The state fire marshal may adopt rules to administer this chapter.

Sec. 796.009. INSPECTION. (a) The state fire marshal may inspect the records and the stock of cigarettes of a person who manufactures, stores, or sells cigarettes to establish whether the person is complying with this chapter.

(b) The comptroller may, in the course of an inspection under Chapter 154, Tax Code, inspect cigarettes for a marking required under Section 796.006 and report the comptroller's findings to the state fire marshal.

Sec. 796.010. CIVIL PENALTY; INJUNCTION. (a) A person who knowingly violates this chapter or a rule adopted under this chapter is subject to a civil penalty in the following amounts:

(1) if the person is a manufacturer, wholesale dealer, or agent knowingly selling or offering to sell a cigarette in violation of this chapter, a civil penalty not to exceed \$100 for each pack of cigarettes sold or offered for sale, but not more than \$100,000 for all violations occurring within a 30-day period;

(2) if the person is a retailer knowingly selling or offering to sell a cigarette in violation of this chapter, a civil penalty not to exceed \$100 for each pack of cigarettes sold or offered for sale, but not more than \$25,000 for all violations occurring within a 30-day period;

(3) if the person knowingly makes a false certification under Section 796.005, a civil penalty not to exceed \$75,000 for a first violation or \$250,000 for a second or subsequent violation; and

(4) if the person violates another provision of this chapter, other than Section 796.007(b), or another rule adopted under this chapter, a civil penalty not to exceed \$1,000 for a first violation or \$5,000 for a second or subsequent violation.

(b) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule or order adopted under this chapter, the attorney general, as determined by the attorney general or on request of the state fire marshal, may bring a civil action in a district court for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation;

(2) the assessment of a civil penalty; or

(3) both injunctive relief and a civil penalty.

(c) A cigarette sold or offered for sale in violation of this chapter is subject to forfeiture under Chapter 154, Tax Code, except that before a forfeited cigarette may be destroyed, the true holder of the trademark rights in the cigarette brand must be permitted to inspect the cigarette.

(d) A civil penalty collected under this section shall be deposited to the credit of the fire prevention and public safety account.

Sec. 796.011. FIRE PREVENTION AND PUBLIC SAFETY ACCOUNT.

(a) The fire prevention and public safety account is a separate account in the general revenue fund.

(b) The account consists of civil penalties collected under Section 796.010.

(c) Money in the account may be appropriated to the state fire marshal to support fire safety and prevention programs.

Sec. 796.012. SALE OUTSIDE OF TEXAS. This chapter does not prohibit a person from manufacturing or selling cigarettes that do not meet the requirements of this chapter if:

(1) the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States; and

(2) the person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale in this state.

Sec. 796.013. INTERPRETATION. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform this chapter with the laws of those states that have enacted reduced cigarette ignition propensity laws.

Sec. 796.014. CONSUMER TESTING. This chapter does not prohibit the sale of a cigarette solely for the purpose of the cigarette's assessment conducted by a manufacturer, or under the control and direction of a manufacturer:

(1) to evaluate consumer acceptance of the cigarette by using only the quantity of cigarettes that is reasonably necessary for the assessment; and

(2) in a controlled setting in which the cigarettes are either consumed on-site or returned to the testing administrators at the conclusion of the testing.

Sec. 796.015. LOCAL REGULATION. A political subdivision of this state may not adopt or enforce any ordinance or other regulation conflicting with, or preempted by, any provision of this chapter or with any policy of this state expressed by this chapter, whether that policy be expressed by inclusion of a provision in the chapter or by exclusion of that subject from the chapter.

Sec. 796.016. FEDERAL REGULATION. On and after the date that a federal reduced cigarette ignition propensity standard that preempts this chapter is adopted and becomes effective, this chapter has no effect.

Sec. 796.017. REPORTS. Not later than January 1 of each odd-numbered year, the state fire marshal shall:

(1) review the effectiveness of this chapter;

(2) submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate committees of the legislature on the state fire marshal's administration of this chapter; and

(3) make recommendations to improve the effectiveness of this chapter, if appropriate.

SECTION 2. (a) Subject to Subsection (b) of this section, the change in law made by Chapter 796, Health and Safety Code, as added by this Act, does not prohibit a wholesale dealer or retailer from selling the person's existing inventory of cigarettes on or after the effective date of this Act if the person can establish that state tax stamps were affixed to the cigarettes before the effective date of this Act in a quantity that is comparable to the quantity of cigarettes purchased by the person during the previous year.

(b) A person may not sell or offer for sale a cigarette in this state that does not comply with Chapter 796, Health and Safety Code, as added by this Act, after January 1, 2010.

SECTION 3. This Act takes effect January 1, 2009.

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

Amend **CSHB 2935** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 796.005(e), Health and Safety Code (page 3, line 32), between "\$250" and the period, insert "to be deposited only to the Texas Department of Insurance operating account in the general revenue fund".

(2) In SECTION 1 of the bill, in proposed Section 796.011(c), Health and Safety Code (page 5, line 11), between "appropriated" and "to", insert "only".

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 2935** in SECTION 1 of the bill by striking proposed Section 796.014, Health and Safety Code (senate committee printing, page 5, lines 26 through 35), and substituting the following:

Sec. 796.014. CONSUMER TESTING. This chapter does not prohibit the sale of a cigarette solely for the purpose of the cigarette's assessment conducted by a manufacturer, or under the control and direction of a manufacturer, to evaluate consumer acceptance of the cigarette by using only the quantity of cigarettes that is reasonably necessary for the assessment.

## **HB 2909 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2909**, A bill to be entitled An Act relating to the authority of the governing body of a taxing unit to elect not to impose or collect taxes on real property erroneously omitted from the appraisal roll or tax roll in a previous year.

Representative Rose moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2909**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2909**: Gattis, chair; Creighton, Martinez Fischer, Rodriguez, and Van Arsdale.

**HB 3594 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3594**, A bill to be entitled An Act relating to motor vehicle inspection facilities near the border of this state and Mexico.

Representative Guillen moved to concur in the senate amendments to **HB 3594**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1800): 137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Cohen; Krusee; Moreno; Morrison; Oliveira.

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

Amend **HB 3594** (senate committee printing) in SECTION 1 of the bill, as follows:

(1) In amended Subsection (c), Section 201.613, Transportation Code (page 1, line 35), strike "Only one inspection facility shall" and substitute "One or more inspection facilities may".

(2) In amended Subsection (d) (1), Section 201.613, Transportation Code (page 1, line 45), strike ", and"

(3) In amended Subsection (d) (2), Section 201.613, Transportation Code (page 1, line 47), strike "." and insert: ;

(3) choose a location within one mile of an international border;

(4) choose a location within one mile of the U.S. Customs and Border Protection federal port of entry; and

(5) choose a location that provides a dedicated route for commercial vehicles coming from the federal port of entry to the state port of entry commercial vehicle inspection station.

### **HB 1391 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1391**, A bill to be entitled An Act relating to the provision of water and utility service.

Representative Giddings moved to concur in the senate amendments to **HB 1391**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1801): 133 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Chavez; Deshotel; Hamilton; Moreno; Oliveira; Peña; Swinford; Talton; Van Arsdale.

### Senate Committee Substitute

**CSHB 1391**, A bill to be entitled An Act relating to the provision of water and utility service.

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

SECTION 1. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.0357 to read as follows:

Sec. 341.0357. PUBLIC SAFETY STANDARDS. (a) In this section:

(1) "Public utility" has the meaning assigned by Section 13.002, Water Code.

(2) "Regulatory authority" has the meaning assigned by Section 13.002, Water Code.

(3) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face; or

(C) a subdivision a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

(b) The regulatory authority for a public utility shall by rule or ordinance adopt standards for maintaining sufficient water pressure for service to fire hydrants adequate to protect public safety in residential areas in a municipality with a population of 1,000,000 or more.

(c) The commission shall assess residential areas in a municipality with a population of 1,000,000 or more to ensure that:

(1) the regulatory authority for the area has adopted the standards required by this section; and

(2) all public utilities serving the residential area are complying with the standards required by this section.

(d) The commission shall require a municipality with a population of 1,000,000 or more and acting as a regulatory authority to make appropriate revisions to standards the commission considers to be inadequate within a reasonable time established by the commission.

(e) The commission shall require a public utility in violation of a standard required under this section and established by the commission or by a municipality with a population of 1,000,000 or more and acting as a regulatory authority to comply with the standard within a reasonable time established by the commission.

(f) This section does not limit the authority of a municipality with a population of 1,000,000 or more and acting as a regulatory authority to prohibit a public utility in violation of a standard established by the municipality from recovering through the public utility's rates a penalty or fine incurred for a violation of a standard.

SECTION 2. Section 341.040, Health and Safety Code, is amended to read as follows:

Sec. 341.040. DEFINITION. In this subchapter, "commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

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

### **HB 1473 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1473**, A bill to be entitled An Act relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.

Representative Giddings moved to concur in the senate amendments to **HB 1473**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1802):  
136 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Bailey; Chavez; Deshotel; Moreno; Oliveira; Peña.

### STATEMENT OF VOTE

When Record No. 1802 was taken, I was in the house but away from my desk. I would have voted yes.

Bailey

#### Senate Committee Substitute

**CSHB 1473**, A bill to be entitled An Act relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.

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

SECTION 1. Chapter 180, Local Government Code, is amended by adding Section 180.006 to read as follows:

Sec. 180.006. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN CLAIMS. (a) This section applies only to a firefighter or police officer covered by:

(1) Chapter 141, 142, or 143 or this chapter;

(2) a municipal charter provision conferring civil service benefits of a municipality that has not adopted Chapter 143; or

(3) a municipal ordinance enacted under Chapter 142 or 143.

(b) A firefighter or police officer described by Subsection (a) who alleges the denial of monetary benefits associated with the recovery of back pay authorized under a provision listed in Subsection (a) or a firefighter described by Subsection (a) who alleges the denial of monetary civil penalties associated with recovery of back pay owed under Section 143.134(h) may seek judicial review of such denial only as provided in Subsections (e) and (f), provided that if there is no applicable grievance, administrative or contractual appeal procedure available under Subsection (e), the firefighter or police officer may file suit directly in district court under the preponderance of the evidence standard of review.

(c) Sovereign and governmental immunity from suit and liability is waived only to the extent of liability for the monetary benefits or monetary civil penalties described by Subsection (b). This section does not waive sovereign or governmental immunity from suit or liability for any other claim, including a claim involving negligence, an intentional tort, or a contract unless otherwise provided by the statute.

(d) This section does not:

(1) grant immunity from suit to a local governmental entity;

(2) waive a defense or a limitation on damages, attorney's fees, or costs available to a party to a suit under this chapter or another statute, including a statute listed in Subsection (a)(1); or

(3) modify an agreement under Chapter 142, 143, or 174.

(e) Before seeking judicial review as provided by Subsection (b), a firefighter or police officer must initiate action pursuant to any applicable grievance or administrative appeal procedures prescribed by state statute or agreement and must exhaust the grievance or administrative appeal procedure.

(f) If judicial review is authorized under statute, judicial review of the grievance or administrative appeal decision is under the substantial evidence rule, unless a different standard of review is provided by the provision establishing the grievance or administrative appeal procedure.

(g) This section does not apply to an action asserting a right or claim based wholly or partly, or directly or indirectly, on a referendum election held before January 1, 1980, or an ordinance or resolution implementing the referendum.

SECTION 2. Subchapter A, Chapter 174, Local Government Code, is amended by adding Section 174.008 to read as follows:

Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding and enforceable against the employing public employer, and sovereign or governmental immunity from suit and liability is waived only to the extent necessary to enforce this chapter against that employer.

SECTION 3. Section 180.006, Local Government Code, as added by this Act, applies only to a claim under Subsection (b) of that section initially asserted on or after the effective date of this Act. A claim initially asserted before the effective date of this Act is governed by the law in effect when the claim was initially asserted, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 1473** as follows:

(1) On page 1, line 25, insert "employing municipality's" after "who alleges the" and before "denial".

(2) On page 1, line 33, insert "against the employing municipality" after "may file suit".

(3) On page 1, line 36, insert "of the employing municipality" after "Sovereign and governmental immunity".

### **HB 3731 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3731**, A bill to be entitled An Act relating to the administration of retirement systems for paid, partly paid, or volunteer firefighters.

Representative Guillen moved to concur in the senate amendments to **HB 3731**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1803): 138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Bonnen; Krusee; Moreno; Oliveira.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1803. I intended to vote present, not voting.

Martinez

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

Amend **HB 3731** (senate committee printing) by inserting the following new SECTION to the bill, numbered appropriately, and renumbering SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subsection (b), Section 29, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A municipality or other political subdivision that has employees who are participating members of a retirement system shall make contributions to the system each payroll period. Except as provided by Subsection (d) of this section, contributions required under this subsection are computed on the total compensation paid to the employees who are participating members of the system. A municipality or other political subdivision is required to make contributions under this subsection at the same rate paid by employees or 12 [~~nine~~] percent, whichever is the smaller rate. The governing body of a municipality or other political subdivision by ordinance may adopt a rate of employer contributions that is greater than the rate required by this subsection.

**HB 3769 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3769**, A bill to be entitled An Act relating to the eligibility of an employee of a political subdivision of this state to be a member of the governing body of certain state agencies.

Representative Puente moved to concur in the senate amendments to **HB 3769**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1804): 134 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Anderson; Moreno; Oliveira; Solomons; Thompson; Van Arsdale; Veasey; Woolley.

**STATEMENT OF VOTE**

When Record No. 1804 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

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

Amend Section 1, as follows:

SECTION 1. Section 5.053, Water Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a) (2) does not apply to an employee of a political subdivision of this state. If the United States Environmental Protection Agency determines that there will be a negative impact on the State of Texas' National Pollution Discharge Elimination Systems delegation, this subsection does not apply.

### **HB 1637 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1637**, A bill to be entitled An Act relating to the operation and administration of the Texas First-Time Homebuyer Program by the Texas Department of Housing and Community Affairs and to certain down payment assistance under that program.

Representative Menendez moved to concur in the senate amendments to **HB 1637**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1805): 138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Chavez; Moreno; Mowery; Oliveira.

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

Amend **HB 1637** as follows:

On Page 2, lines 25 and 26, strike "(2) have an income of not more than 140 percent of area median family income; and" and substitute "(2) have an income of not more than 115 percent of area median family income or 140 percent of area median family income in targeted areas; and".

**HB 2783 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2783**, A bill to be entitled An Act relating to the regulation of certain persons involved in mortgage lending.

Representative Solomons moved to concur in the senate amendments to **HB 2783**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1806):  
133 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Coleman; Elkins; Haggerty; Howard, C.; Laubenberg; Moreno; Morrison; Oliveira; Smith, W.

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

Amend **HB 2783** (house engrossment) as follows:

(1) Insert the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.2011 to read as follows:

Sec. 156.2011. PROVISIONAL LOAN OFFICER LICENSE. (a) An applicant for a loan officer license may be issued a provisional loan officer license as provided by this section only if the applicant:

(1) during the 20 months immediately preceding the application, has at least 18 months of experience as a loan officer employed by a person exempt from this chapter under Section 156.202; and

(2) meets the qualifications for a loan officer license, other than the educational and examination requirements.

(b) The commissioner shall use best efforts to issue the provisional loan officer license on or before the later of:

(1) the 10th business day after the date of receipt of a completed application; or

(2) the second business day after the date of receipt of the criminal background information required under Section 156.206 demonstrating that the applicant has no pending criminal charges and has not been convicted of a criminal offense.

(c) For purposes of Subsection (b)(2), a person is considered convicted as provided by Section 156.204(d).

(d) A provisional loan officer license is valid for 90 days after the date the license is issued, except as provided by Subsection (e).

(e) The commissioner may revoke a provisional loan officer license if the commissioner discovers that the applicant has made a misrepresentation relating to the applicant's qualifications for a loan officer license, has violated this chapter, or does not meet the qualifications for a provisional loan officer license. The revocation of a provisional loan officer license is not subject to appeal.

(f) The finance commission by rule may impose a fee not to exceed \$100 for an expedited issuance of a provisional loan officer license. The fee is nonrefundable and is in addition to the fee for the application for a regular loan officer license.

SECTION \_\_\_\_\_. The changes in law made by Section 156.2011, Finance Code, as added by this Act, and Section 156.204, Finance Code, as amended by this Act, apply only to a loan officer or mortgage broker license for which any part of an application is submitted on or after September 1, 2007.

(2) In the recital to SECTION 5 of the bill (page 3, line 13), strike "Sections 156.204(a) and (b)," and substitute "Sections 156.204(a), (b), (c), and (e),".

(3) In SECTION 5 of the bill, in Subdivision (7) of amended Section 156.204(a), Finance Code (page 5, line 4), strike "; and" and substitute "; [~~and~~"]".

(4) In SECTION 5 of the bill, in Subdivision (8) of amended Section 156.204(a), Finance Code, between "commissioner" and the period (page 5, line 7), insert the following:

; and

(9) provide the commissioner with satisfactory evidence that:

(A) if the person has not been previously licensed as a mortgage broker or a loan officer under this subchapter, the person has completed 90 classroom hours of education courses approved by the commissioner under this section; or

(B) if the person has not been previously licensed as a mortgage broker under this subchapter but has been licensed as a loan officer under this subchapter, the person has successfully completed an additional 30 classroom hours of education courses approved by the commissioner under this section

(5) In SECTION 5 of the bill, following amended Section 156.204(b), Finance Code (page 6, between lines 13 and 14), add the following:

(c) To be eligible to be licensed as a loan officer a person must:

(1) be an individual who is at least 18 years of age;

(2) be a citizen of the United States or a lawfully admitted alien;

(3) designate in the application the name of the mortgage broker sponsoring the loan officer;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) the person meets one of the requirements described by Subsection (a)(4) and has ~~;~~

~~[(B) the person has]~~ successfully completed 60 classroom ~~[30]~~ hours of education courses approved by the commissioner under this section;

(B) ~~[(C)]~~ the person has 18 months of experience as a loan officer as evidenced by documentary proof of full-time employment as a loan officer with ~~[a mortgage broker or]~~ a person exempt under Section 156.202 and has successfully completed 30 classroom hours of education courses approved by the commissioner under this section; or

(C) ~~[(D)]~~ for applications received prior to January 1, 2000, the mortgage broker that will sponsor the applicant provides a certification under oath that the applicant has been provided necessary and appropriate education and training regarding all applicable state and federal law and regulations relating to mortgage loans;

(5) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a loan officer as provided by Chapter 53, Occupations Code;

(6) satisfy the commissioner as to the individual's good moral character, including the individual's honesty, trustworthiness, and integrity;

(7) provide the commissioner with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the finance commission, that demonstrates knowledge of:

(A) the mortgage industry; and

(B) the role and responsibilities of a loan officer; and

(8) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued to the individual by the commissioner.

(e) The education courses required for a mortgage broker or loan officer license under Subsection (a)(9) or (c)(4) [~~(e)(4)(B)~~] must cover ethics, the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.), the Truth in Lending Act (15 U.S.C. Section 1601 et seq.), the Equal Credit Opportunity Act (15 U.S.C. Section 1691 et seq.), and the provisions of this chapter.

**HB 3232 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3232**, A bill to be entitled An Act relating to certain subdivision golf courses.

Representative Olivo moved to concur in the senate amendments to **HB 3232**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1807): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Callegari; Menendez; Moreno; Oliveira; Pierson; Raymond; Veasey.

**Senate Committee Substitute**

**CSHB 3232**, A bill to be entitled An Act relation to certain subdivision golf course.

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

SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in a county:

(A) with a population of more than three million; or

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property Code.

(4) "Restrictions," "subdivision," and "owner" have the meanings assigned by Section 201.003, Property Code.

(5) "Subdivision golf course" means an area of land:

(A) that was originally developed as a golf course or a country club within a common scheme of development for a predominantly residential single-family development project;

(B) that was at any time in the seven years preceding the date on which a new plat for the land is filed:

(i) used as a golf course or a country club;

(ii) zoned as a community facility;

(iii) benefited from restrictive covenants on adjoining homeowners; or

(iv) designated on a recorded plat as a golf course or a country club; and

(C) that is not separated entirely from the predominantly residential single-family development project by a public street.

(c) In addition to any other requirement of this chapter, a new plat must conform to the requirements of this section if any of the area subject to the new plat is a subdivision golf course. The exception in Section 212.004(a) excluding divisions of land into parts greater than five acres for platting requirements does not apply to a subdivision golf course.

(d) A new plat that is subject to this section may not be approved until each municipal authority reviewing the new plat conducts a public hearing on the matter at which the parties in interest and citizens have an adequate opportunity to be heard, present evidence, and submit statements or petitions for consideration by the municipal authority. The number, location, and procedure for the public hearings may be designated by the municipal authority for a particular hearing. The municipal authority may abate, continue, or reschedule, as the municipal authority considers appropriate, any public hearing in order to receive a full and complete record on which to make a decision. If the new plat would otherwise be administratively approved, the municipal planning commission is the approving body for the purposes of this section.

(e) The municipal authority may not approve the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). Not later than the 30th day after the date on which all proceedings necessary for the public hearings have concluded, the municipal authority shall take action on the application for the new plat. Sections 212.009(a) and (b) do not apply to the approval of plats under this section.

(f) The municipality may provide notice of the initial hearing required by Subsection (d) only after the requirements of Subsections (m) and (n) are met. The notice shall be given before the 15th day before the date of the hearing by:

(1) publishing notice in an official newspaper or a newspaper of general circulation in the county in which the municipality is located;

(2) providing written notice, with a copy of this section attached, by the municipal authority responsible for approving plats to:

(A) each property owners' association for each neighborhood benefited by the subdivision golf course, as indicated in the most recently filed management certificates; and

(B) the owners of lots that are within 200 feet of the area subject to the new plat, as indicated:

(i) on the most recently approved municipal tax roll; and

(ii) in the most recent online records of the central appraisal district of the county in which the lots are located; and

(3) any other manner determined by the municipal authority to be necessary to ensure that full and fair notice is provided to all owners of residential single-family lots in the general vicinity of the subdivision golf course.

(g) The written notice required by Subsection (f)(2) may be delivered by depositing the notice, properly addressed with postage prepaid, in the United States mail.

(h) The cost of providing the notices under Subsection (f) shall be paid by the plat applicant.

(i) If written instruments protesting the proposed new plat are signed by the owners of at least 20 percent of the area of the lots or land immediately adjacent to the area covered by a proposed new plat and extending 200 feet from that area and are filed with the municipal planning commission or the municipality's

governing body before the conclusion of the public hearings, the proposed new plat must receive, to be approved, the affirmative vote of at least three-fifths of the members of the municipal planning commission or governing body.

(j) In computing the percentage of land area under Subsection (i), the area of streets and alleys is included.

(k) The municipal planning commission or the municipality's governing body may not approve a new plat under this section unless it determines that:

(1) there is adequate existing or planned infrastructure to support the future development of the subdivision golf course;

(2) based on existing or planned facilities, the development of the subdivision golf course will not have a materially adverse effect on:

(A) traffic, parking, drainage, water, sewer, or other utilities;

(B) the health, safety, or general welfare of persons in the municipality; or

(C) safe, orderly, and healthful development of the municipality;

(3) the development of the subdivision golf course will not have a materially adverse effect on existing single-family property values;

(4) the new plat is consistent with all applicable land use regulations and restrictive covenants and the municipality's land use policies as described by the municipality's comprehensive plan or other appropriate public policy documents; and

(5) if any portion of a previous plat reflected a restriction on the subdivision golf course whether:

(A) that restriction is an implied covenant or easement benefiting adjacent residential properties; or

(B) the restriction, covenant, or easement has been legally released or has expired.

(l) The municipal authority may adopt rules to govern the platting of a subdivision golf course that do not conflict with this section, including rules that require more detailed information than is required by Subsection (n) for plans for development and new plat applications.

(m) The application for a new plat under this section is not complete and may not be submitted for review for administrative completeness unless the tax certificates required by Section 12.002(e), Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) A plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains the following information, complete in all material respects:

(1) street layout;

(2) lot and block layout;

(3) number of residential units;

(4) location of nonresidential development, by type of development;

(5) drainage, detention, and retention plans;

(6) screening plan for adjacent residential properties, including landscaping or fencing; and

(7) an analysis of the effect of the project on values in the adjacent residential neighborhoods.

(o) A municipal authority with authority over platting may require as a condition for approval of a plat for a golf course that:

(1) the area be platted as a restricted reserve for the proposed use; and

(2) the plat be incorporated into the plat for any adjacent residential lots.

(p) An owner of a lot that is within 200 feet of a subdivision golf course may seek declaratory or injunctive relief from a district court to enforce the provisions in this section.

SECTION 2. Section 82.051, Property Code, is amended by adding Subsection (f) to read as follows:

(f) This chapter does not permit development of a subdivision golf course, as defined by Section 212.0155(b), Local Government Code, without a plat if the plat is otherwise required by applicable law. A municipality may require as a condition to the development of a previously platted or unplatted subdivision golf course that the subdivision golf course be platted or replatted.

SECTION 3. (a) Notwithstanding Chapter 245, Local Government Code, the change in law made by Section 212.0155, Local Government Code, as added by this Act, applies to approval of a plat filed on or after the effective date of this Act or before the effective date of this Act if the approval of a plat filed before the effective date of this Act is not final. A plat filed and approved before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by Section 212.0155, Local Government Code, as added by this Act, does not apply to a lawsuit filed before the effective date of this Act. That section applies to land that is the subject of a lawsuit filed before the effective date of this Act on the date the decision in that lawsuit becomes final or the suit is otherwise terminated.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

**HB 1864 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1864**, A bill to be entitled An Act relating to periods of possession of a child under a standard possession order.

Representative Gonzales moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1864**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1864**: Gonzales, chair; Dutton, Corte, Vaught, and Van Arsdale.

### **HB 3575 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3575**, A bill to be entitled An Act relating to the monitoring and enhancement of health and human services information technology systems.

Representative Rose moved to concur in the senate amendments to **HB 3575**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1808): 136 Yeas, 2 Nays, 2 Present, not voting.

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

Nays — Harper-Brown; Phillips.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; Turner.

Absent — Elkins; Flores; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 3575**, A bill to be entitled An Act relating to the monitoring and enhancement of health and human services information technology systems.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter M to read as follows:

#### SUBCHAPTER M. MONITORING AND ENHANCEMENT OF HEALTH AND HUMAN SERVICES INFORMATION TECHNOLOGY SYSTEMS

Sec. 531.451. DEFINITIONS. In this subchapter:

(1) "Committee" means the health and human services eligibility system legislative oversight committee.

(2) "Eligibility system" means the following information technology and data processing systems used in the delivery of health and human services benefit programs:

(A) the Texas Integrated Eligibility Redesign System (TIERS);

(B) the System of Application, Verification, Eligibility, Referral, and Reporting (SAVERR);

(C) integration processes and practices that facilitate interactions between the systems described by Paragraphs (A) and (B) and allow for the exchange of information between those systems; and

(D) delivery processes and practices that directly leverage the systems described by Paragraphs (A) and (B) and interact with applicants for and recipients of health and human services program benefits.

(3) "Enhanced eligibility system" means the eligibility system as modified to meet the goals described in Section 531.452 in accordance with the transition plan developed under Section 531.453.

(4) "Quality assurance team" means the quality assurance team created under Section 2054.158.

Sec. 531.452. GOALS FOR ENHANCED ELIGIBILITY SYSTEM. The enhanced eligibility system implemented under this subchapter must be designed to achieve the following goals with respect to health and human services programs in this state:

(1) increase the quality of and client access to services provided through the programs;

(2) implement more efficient business processes that will reduce processing times for applications for program benefits and reduce staff workloads;

(3) implement simplified application and enrollment processes for the programs in a manner that is consistent with program goals established by the legislature;

(4) enhance the integrity of and reduce fraud in the programs; and

(5) ensure compliance with applicable federal law, including rules.

Sec. 531.453. ELIGIBILITY SYSTEM TRANSITION PLAN. (a) The commission shall develop a transition plan under which the eligibility system in existence on September 1, 2007, is transformed and enhanced to be more fully functional relative to the needs of eligible Texas residents and to meet the goals

described in Section 531.452 not later than January 1, 2009. The commission shall include a timetable in the transition plan for meeting specific goals with respect to achieving that transformation.

(b) The transition plan must:

(1) include a description of the commission's responsibilities with respect to and role in making the transition from the eligibility system in existence on September 1, 2007, to the enhanced eligibility system;

(2) specify the responsibilities and roles of persons with whom the commission contracted before October 1, 2007, in making that transition and implementing the enhanced eligibility system;

(3) specify the responsibilities and roles of persons with whom the commission contracts on or after October 1, 2007, in making that transition and implementing the enhanced eligibility system; and

(4) specify the steps the commission will take to achieve the goals of the enhanced eligibility system as described in Section 531.452.

(c) The commission shall make the transition plan available to the public at a public hearing conducted by the committee not later than October 15, 2007.

Sec. 531.454. ELIGIBILITY SYSTEM REVIEW DURING TRANSITION PERIOD. (a) The state auditor's office shall establish, in consultation with the Department of Information Resources, an independent validation and verification program for the eligibility system during the period of the transition plan developed under Section 531.453. The state auditor's office shall also coordinate and consult with the commission, including the commission's office of inspector general, in establishing the program.

(b) The independent validation and verification program must allow for a determination of:

(1) whether the goals set by the commission in the transition plan are being met in accordance with the timetable required by Section 531.453(a);

(2) whether the eligibility system is progressing toward becoming fully functional relative to the needs of eligible Texas residents;

(3) what actions are necessary to achieve full functionality of the eligibility system;

(4) whether the commission is making progress toward meeting the goals of the enhanced eligibility system described in Section 531.452; and

(5) what additional actions are necessary to achieve the goals of the enhanced eligibility system.

(c) The state auditor's office shall present the proposed independent validation and verification program to the committee and seek the committee's recommendations for modifications to the proposed program. The state auditor's office shall consider the committee's recommendations and modify the proposed program as necessary.

(d) The state auditor's office may:

(1) enter into a contract with a person to perform the duties required of the office under Subsection (a), subject to the requirements of Subsection (c); and

(2) enter into a contract with a person to implement the independent validation and verification program, or may implement the program using a contractor with which the commission contracts as provided by Subsection (e).

(e) The commission may enter into a contract with a person before September 1, 2007, to operate an independent validation and verification program for the eligibility system.

(f) The quality assurance team shall establish a schedule for periodic monitoring of the eligibility system during the period of the transition plan developed under Section 531.453.

(g) The state auditor's office and the quality assurance team shall share information as necessary to fulfill their respective duties under this section.

Sec. 531.455. ENHANCED ELIGIBILITY SYSTEM AS MAJOR INFORMATION RESOURCES PROJECT. The commission shall identify the enhanced eligibility system as a major information resources project, as defined by Section 2054.003(10), in the commission's biennial operating plan.

Sec. 531.456. HEALTH AND HUMAN SERVICES ELIGIBILITY SYSTEM LEGISLATIVE OVERSIGHT COMMITTEE. (a) The health and human services eligibility system legislative oversight committee is created to support the commission's implementation of the enhanced eligibility system in a manner that maximizes the positive effects of that implementation on the delivery of health and human services in this state.

(b) The committee is composed of seven members, as follows:

(1) the presiding officer of the Senate Health and Human Services Committee, or its successor;

(2) the presiding officer of the House Human Services Committee, or its successor;

(3) two members of the senate, appointed by the lieutenant governor;

(4) two members of the house of representatives, appointed by the speaker of the house of representatives; and

(5) one additional member, appointed by the governor.

(c) The executive commissioner serves as an ex officio member of the committee.

(d) A member of the committee appointed under Subsection (b)(3), (4), or (5) serves at the will of the appointing official.

(e) The lieutenant governor shall designate one committee member to serve as a joint presiding officer of the committee, and the speaker of the house of representatives shall designate another committee member to serve as the other joint presiding officer.

(f) The committee meets at the call of a joint presiding officer.

(g) A committee member may not receive compensation for serving on the committee, but is entitled to reimbursement for expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

Sec. 531.457. DUTIES OF COMMITTEE. The committee shall:

(1) conduct a public hearing at least once every four months;

(2) review information with respect to the transition plan developed under Section 531.453, and the progress made in implementing that plan, including whether the eligibility system is progressing toward achieving full functionality and meeting the goals described in Section 531.452;

(3) review recommendations made by the commission, the state auditor's office, and the quality assurance team regarding actions necessary to make a component of the eligibility system that is not fully functional achieve that functionality;

(4) not later than December 1, 2008, make recommendations to the legislature regarding any legislative action necessary to support the implementation of the enhanced eligibility system in a manner that maximizes the positive effects of that implementation on the delivery of health and human services in this state; and

(5) after implementation of the enhanced eligibility system, monitor and regularly report to the legislature on the effectiveness and efficiency of that system.

Sec. 531.458. EXPIRATION. This subchapter expires September 1, 2011.

SECTION 2. Not later than September 1, 2007, the governor, the lieutenant governor, and the speaker of the house of representatives shall appoint the members of the health and human services eligibility system legislative oversight committee as required by Section 531.456, Government Code, as added by this Act.

SECTION 3. Not later than October 15, 2007, the health and human services eligibility system legislative oversight committee shall conduct the first public hearing required by Section 531.457, Government Code, as added by this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 3575** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.019 to read as follows:

Sec. 531.019. SERVICES PROVIDED BY CONTRACTOR TO PERSONS WITH LIMITED ENGLISH PROFICIENCY. (a) Each contract with the commission or a health and human services agency that requires the provision of call center services or written communications related to call center services must include performance standards that measure the effectiveness, promptness, and accuracy of the contractor's oral and written communications with persons with limited English proficiency. Each person who seeks to enter into a contract described by this subsection shall include in the bid or other applicable

expression of interest for the contract a proposal for providing call center services or written communications related to call center services to persons with limited English proficiency.

(b) The proposal required under Subsection (a) must include a language access plan that describes how the contractor will achieve any performance standards described in the request for bids, proposals, or other applicable expressions of interest. The plan must also describe how the contractor will:

(1) identify persons who need language assistance;

(2) provide language assistance measures, including the translation of forms into languages other than English and the provision of translators and interpreters;

(3) inform persons with limited English proficiency of the language services available to them and how to obtain them;

(4) develop and implement qualifications for bilingual staff; and

(5) monitor compliance with the language access plan.

(c) In determining which bid or other applicable expression of interest offers the best value, the commission or a health and human services agency, as applicable, shall evaluate the extent to which the proposal for providing call center services or written communications related to call center services in languages other than English will provide meaningful access to the services for persons with limited English proficiency.

(d) In determining the extent to which a proposal will provide meaningful access under Subsection (c), the agency shall consider:

(1) the language access plan developed under Subsection (b);

(2) the number or proportion of persons with limited English proficiency in the agency's eligible service population;

(3) the frequency with which persons with limited English proficiency seek information regarding the agency's programs;

(4) the importance of the services provided by the agency's programs;  
and

(5) the resources available to the agency.

(e) The agency must avoid selecting a contractor that the agency reasonably believes will:

(1) provide information in languages other than English that is limited in scope;

(2) unreasonably delay the provision of information in languages other than English; or

(3) provide program information, including forms, notices, and correspondence, in English only.

(f) This section does not apply to 2-1-1 services provided by the Texas Information and Referral Network.

SECTION \_\_\_\_\_. (a) In this section, "commission" and "health and human services agencies" have the meanings assigned by Section 531.001, Government Code.

(b) Section 531.019, Government Code, as added by this Act, applies only to a contract for which the commission or a health and human services agency first advertises or otherwise solicits bids, proposals, offers, or qualifications, as applicable, on or after September 1, 2007.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

McClendon on motion of Dukes.

(Speaker in the chair)

### HB 4134 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 4134**, A bill to be entitled An Act relating to the creation of the Harris County Improvement District No. 10; providing authority to impose a tax and issue bonds.

Representative Miles moved to concur in the senate amendments to **HB 4134**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1809): 134 Yeas, 5 Nays, 1 Present, not voting.

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

Nays — Crabb; Harper-Brown; Laubenberg; Paxton; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Crownover; Gattis; Kolkhorst; McClendon; Turner.

Absent — Goolsby; Moreno; Oliveira.

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

Amend **HB 4134** (senate committee printing) in SECTION 1 of the bill, in added Section 3860.108, Special District Local Laws Code, as follows:

- (1) Strike "(a)" (page 5, line 5).
- (2) Strike added Subsection (b) (page 5, lines 11 through 14).

**HR 2371 - READ**

**(by Dunnam)**

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

**HR 2371**, Congratulating Neesha Ishwar Dave and Jeffre Ward Rotkoff of Austin on their impending nuptials.

(Hilderbran in the chair)

**HR 2678 - ADOPTED**

**(by Burnam)**

Representative Burnam moved to suspend all necessary rules to take up and consider at this time **HR 2678**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2678**, Recognizing The Bad Precedents as the official band of the Regular Session of 80th Texas Legislature.

**HR 2678** was read and was adopted.

On motion of Representative Martinez Fischer, the names of all the members of the house were added to **HR 2678** as signers thereof.

**SB 6 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Peña, the house granted the request of the senate for the appointment of a conference committee on **SB 6**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 6**: Peña, chair; Parker, Eissler, Guillen, and Riddle.

**SB 8 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Flynn, the house granted the request of the senate for the appointment of a conference committee on **SB 8**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 8**: Flynn, chair; Eissler, Bonnen, Taylor, and Zedler.

**SB 10 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Delisi, the house granted the request of the senate for the appointment of a conference committee on **SB 10**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 10**: Delisi, chair; J. Davis, Isett, Hopson, and Taylor.

**SB 23 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative T. Smith, the house granted the request of the senate for the appointment of a conference committee on **SB 23**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 23**: Smithee, chair; Taylor, Hancock, Eiland, and Woolley.

**SB 36 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 36**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 36**: Eiland, chair; Delisi, Coleman, Jackson, and Truitt.

**SB 548 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Eissler, the house granted the request of the senate for the appointment of a conference committee on **SB 548**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 548**: Hamilton, chair; Driver, Frost, Latham, and West.

**HB 2238 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2238**, A bill to be entitled An Act relating to the establishment of the Texas Education Data System (TEDS) and certain public school reporting requirements.

Representative Eissler moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2238**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2238**: Eissler, chair; Burnam, Hochberg, Patrick, and Zedler.

**SB 903 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 903**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 903**: Kolkhorst, chair; Corte, Garcia, Noriega, and Truitt.

**SB 1154 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 1154**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1154**: Phillips, chair; Hancock, Kuempel, Peña, and Solomons.

**SB 1383 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 1383**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1383**: Smithee, chair; Darby, Gonzalez Toureilles, Morrison, and Swinford. (New conferees were appointed later today, on the part of the house, on **SB 1383**.)

(Crownover now present)

**SB 1499 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 1499**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1499**: Corte, chair; Escobar, Isett, Taylor, and Garcia.

**HB 2094 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2094**, A bill to be entitled An Act relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

Representative Hill moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2094**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2094**: Hill, chair; Deshotel, Krusee, Jackson, and Phillips.

### **SB 103 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Madden submitted the conference committee report on **SB 103**.

Representative Madden moved to adopt the conference committee report on **SB 103**.

(Turner now present)

A record vote was requested.

The motion to adopt the conference committee report on **SB 103** prevailed by (Record 1810): 137 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Aycock; Driver; Hamilton; Moreno; Oliveira; Rose; Villarreal.

### **STATEMENT OF VOTE**

When Record No. 1810 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

**SB 1714 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a conference committee on **SB 1714**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1714**: Smithee, chair; Delisi, Hardcastle, R. Cook, and Hopson.

**HB 2004 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Giddings submitted the following conference committee report on **HB 2004**:

Austin, Texas, May 21, 2007

The Honorable David Dewhurst  
President of the Senate

The Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2004** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Lucio	Giddings
Carona	Elkins
Van de Putte	Bailey
	Zedler

On the part of the senate

On the part of the house

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

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

SECTION 1. Subchapter A, Chapter 408, Labor Code, is amended by adding Sections 408.0043 through 408.0046 to read as follows:

Sec. 408.0043. PROFESSIONAL SPECIALTY CERTIFICATION REQUIRED FOR CERTAIN REVIEW. (a) This section applies to a person, other than a chiropractor or a dentist, who performs health care services under this title as:

- (1) a doctor performing peer review;
- (2) a doctor performing a utilization review of a health care service provided to an injured employee, including a retrospective review;
- (3) a doctor performing an independent review of a health care service provided to an injured employee, including a retrospective review;
- (4) a designated doctor;
- (5) a doctor performing a required medical examination; or
- (6) a doctor serving as a member of the medical quality review panel.

(b) A person described by Subsection (a) who reviews a specific workers' compensation case must hold a professional certification in a health care specialty appropriate to the type of health care that the injured employee is receiving.

Sec. 408.0044. REVIEW OF DENTAL SERVICES. (a) This section applies to a dentist who performs dental services under this title as:

(1) a doctor performing peer review of dental services;

(2) a doctor performing a utilization review of a dental service provided to an injured employee, including a retrospective review;

(3) a doctor performing an independent review of a dental service provided to an injured employee, including a retrospective review; or

(4) a doctor performing a required dental examination.

(b) A person described by Subsection (a) who reviews a dental service provided in conjunction with a specific workers' compensation case must be licensed to practice dentistry.

Sec. 408.0045. REVIEW OF CHIROPRACTIC SERVICES. (a) This section applies to a chiropractor who performs chiropractic services under this title as:

(1) a doctor performing peer review of chiropractic services;

(2) a doctor performing a utilization review of a chiropractic service provided to an injured employee, including a retrospective review;

(3) a doctor performing an independent review of a chiropractic service provided to an injured employee, including a retrospective review;

(4) a designated doctor providing chiropractic services;

(5) a doctor performing a required medical examination; or

(6) a chiropractor serving as a member of the medical quality review panel.

(b) A person described by Subsection (a) who reviews a chiropractic service provided in conjunction with a specific workers' compensation case must be licensed to engage in the practice of chiropractic.

Sec. 408.0046. RULES. The commissioner may adopt rules as necessary to determine which professional health practitioner specialties are appropriate for treatment of certain compensable injuries. The rules adopted under this section must require an entity requesting a peer review to obtain and provide to the doctor providing peer review services all relevant and updated medical records.

SECTION 2. Section 408.004, Labor Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A doctor, other than a chiropractor, who performs a required medical examination under this section is subject to Section 408.0043. A chiropractor who performs a required medical examination under this section is subject to Section 408.0045.

SECTION 3. Section 408.0041(b), Labor Code, is amended to read as follows:

(b) A medical examination requested under Subsection (a) shall be performed by the next available doctor on the division's list of designated doctors whose credentials are appropriate for the issue in question and the injured employee's medical condition as determined by commissioner rule. A designated

doctor, other than a chiropractor, is subject to Section 408.0043. A designated doctor who is a chiropractor is subject to Section 408.0045. The division shall assign a designated doctor not later than the 10th day after the date on which the request under Subsection (a) is approved, and the examination must be conducted not later than the 21st day after the date on which the commissioner issues the order under Subsection (a). An examination under this section may not be conducted more frequently than every 60 days, unless good cause for more frequent examinations exists, as defined by commissioner rules.

SECTION 4. Section 408.0231(g), Labor Code, is amended to read as follows:

(g) The commissioner shall adopt rules regarding doctors who perform peer review functions for insurance carriers. Those rules may include standards for peer review, imposition of sanctions on doctors performing peer review functions, including restriction, suspension, or removal of the doctor's ability to perform peer review on behalf of insurance carriers in the workers' compensation system, and other issues important to the quality of peer review, as determined by the commissioner. A doctor who performs peer review under this subtitle must hold the appropriate professional license issued by this state. A doctor, other than a chiropractor or a dentist, who performs peer review is subject to Section 408.0043. A dentist who performs a peer review of a dental service provided to an injured employee is subject to Section 408.0044. A chiropractor who performs a peer review of a chiropractic service provided to an injured employee is subject to Section 408.0045.

SECTION 5. Section 408.1225, Labor Code, is amended by adding Subsection (e) to read as follows:

(e) A designated doctor, other than a chiropractor, is subject to Section 408.0043. A designated doctor who is a chiropractor is subject to Section 408.0045.

SECTION 6. Section 413.031, Labor Code, is amended by amending Subsections (d) and (e) and adding Subsection (e-3) to read as follows:

(d) A review of the medical necessity of a health care service requiring preauthorization under Section 413.014 or commissioner rules under that section or Section 413.011(g) shall be conducted by an independent review organization under Chapter 4202 [Article 21.58C], Insurance Code, in the same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization.

(e) Except as provided by Subsections (d), (f), and (m), a review of the medical necessity of a health care service provided under this chapter or Chapter 408 shall be conducted by an independent review organization under Chapter 4202 [Article 21.58C], Insurance Code, in the same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization.

(e-3) Notwithstanding Subsections (d) and (e) of this section or Chapters 4201 and 4202, Insurance Code, a doctor, other than a dentist or a chiropractor, who performs a utilization review or an independent review, including a retrospective review, of a health care service provided to an injured employee is subject to Section 408.0043. A dentist who performs a utilization review or an independent review, including a retrospective review, of a dental service provided to an injured employee is subject to Section 408.0044. A chiropractor who performs a utilization review or an independent review, including a retrospective review, of a chiropractic service provided to an injured employee is subject to Section 408.0045.

SECTION 7. Section 413.0512, Labor Code, is amended by adding Subsection (f) to read as follows:

(f) A member of the medical quality review panel, other than a chiropractor, who reviews a specific workers' compensation case is subject to Section 408.0043. A chiropractor who reviews a specific workers' compensation case is subject to Section 408.0045.

SECTION 8. The change in law made by this Act applies only to a review of a health care service provided under a claim for workers' compensation benefits that is conducted on or after the effective date of this Act. A review that is conducted before that date is governed by the law in effect on the date that the review was conducted, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2007.

Representative Giddings moved to adopt the conference committee report on **HB 2004**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2004** prevailed by (Record 1811): 135 Yeas, 0 Nays, 2 Present, not voting.

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

Present, not voting — Mr. Speaker; Villarreal.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Anderson; Coleman; Corte; Delisi; Moreno; Oliveira; Thompson; Woolley.

### STATEMENT OF VOTE

When Record No. 1811 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

### SB 1993 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Flynn submitted the conference committee report on **SB 1993**.

(Solomons in the chair)

Representative Flynn moved to adopt the conference committee report on **SB 1993**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1993** prevailed by (Record 1812): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Anderson; Moreno; Oliveira.

**STATEMENT OF VOTE**

When Record No. 1812 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

**HR 2576 - ADOPTED  
(by Callegari)**

The following privileged resolution was laid before the house:

**HR 2576**

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2261** (regulation of certain service contracts) to consider and take action on the following matter:

House Rule 13, Section 9(a)(3), is suspended to permit the committee to change the text of SECTION 1 of the bill by adding a new Section 1304.003(d), Occupations Code, to read as follows:

(d) Subsection (c)(5) does not apply to tire damage covered under an agreement sold by a tire manufacturer.

Explanation: The change is necessary to clarify how certain contracts apply to tire damage covered by a separate agreement sold by a tire manufacturer.

**HR 2576** was adopted.

**HB 2261 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Callegari submitted the following conference committee report on **HB 2261**:

Austin, Texas, May 21, 2007

The Honorable David Dewhurst  
President of the Senate

The Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2261** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson  
Brimer  
Fraser  
Harris  
Eltime

Callegari  
Aycock  
Miles  
O'Day

On the part of the senate

On the part of the house

**HB 2261**, A bill to be entitled An Act relating to the regulation of certain service contracts.

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

SECTION 1. Section 1304.003, Occupations Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) In this chapter, "service contract" means an agreement:

(1) that is entered into for a separately stated consideration and for a specified term; and

(2) under which a provider agrees to repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear.

(c) For purposes of Subsection (a), normal wear for a motor vehicle may include minor and reasonable wear and tear that a vehicle sustains in everyday ordinary operation including:

(1) small dents, dings, and creases repairable by the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels or sanding, bonding, or painting;

(2) small windshield chips and cracks repairable without replacement of the entire windshield;

(3) worn tire tread;

(4) worn interior fabric or carpet items; and

(5) tire and wheel damage resulting from ordinary road hazards such as potholes, rocks, wood debris, metal parts, glass, plastic, or composite scraps.

(d) Subsection (c)(5) does not apply to tire damage covered under an agreement sold by a tire manufacturer.

SECTION 2. The change in law made by this Act applies to a service contract entered into on or after the effective date of this Act. A service contract entered into before the effective date of this Act is covered by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

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

Representative Callegari moved to adopt the conference committee report on **HB 2261**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2261** prevailed by (Record 1813): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;



(1) in person to the applicant or the applicant's agent appointed under Section 13.003; or

(2) by mail to the applicant.

SECTION 2. Section 15.004(b), Election Code, is amended to read as follows:

(b) Not later than the 30th day after the date the registrar receives [On receipt of] the notice, the registrar shall deliver to the voter a replacement certificate containing:

(1) the registration number and other information on the lost or destroyed certificate; and

(2) a notation that the certificate is a replacement.

SECTION 3. Section 15.024(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (b), after correcting the registration records with respect to a voter, if necessary, the registrar shall ~~promptly~~ issue the voter a registration certificate containing the appropriate corrections and deliver it to the voter not later than the 30th day after the date the registrar receives notice of a correction.

SECTION 4. Section ~~13.144~~(c), Election Code, is repealed.

SECTION 5. The change in law made by this Act applies only to a voter registration certificate for which an application, notice of loss or destruction, or notice of a correction is received by the voter registrar on or after September 1, 2007.

SECTION 6. This Act takes effect September 1, 2007.

Representative Dutton moved to adopt the conference committee report on **HB 1044**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1044** prevailed by (Record 1814): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Coleman; Moreno; Oliveira.

### **SB 1896 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Delisi submitted the conference committee report on **SB 1896**.

Representative Delisi moved to adopt the conference committee report on **SB 1896**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1896** prevailed by (Record 1815): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Corte; Moreno; Oliveira.

### **SB 763 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Harper-Brown submitted the conference committee report on **SB 763**.

Representative Harper-Brown moved to adopt the conference committee report on **SB 763**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 763** prevailed by (Record 1816): 139 Yeas, 0 Nays, 2 Present, not voting.

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

Present, not voting — Mr. Speaker; Jackson.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Keffer; McReynolds; Moreno; Oliveira.

### **HB 930 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Chavez submitted the following conference committee report on **HB 930**:

Austin, Texas, May 25, 2007

The Honorable David Dewhurst  
President of the Senate

The Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 930** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti	Chavez
Harris	Castro
Hinojosa	Corte
Watson	Garcia

Wentworth  
On the part of the senate

Taylor  
On the part of the house

**HB 930**, A bill to be entitled An Act relating to certain orders rendered by, and preservation of the record in matters heard by, an associate judge under the Family Code.

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

SECTION 1. Section 201.007, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend an order to be rendered in a case;
- (11) regulate all proceedings in a hearing before the associate judge;
- (12) order the attachment of a witness or party who fails to obey a subpoena;

(13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 201.013;

(14) without prejudice to the right of appeal under Section 201.015,  
render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order; ~~or~~

(C) a temporary order; or

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing; ~~and~~

(15) take action as necessary and proper for the efficient performance of the associate judge's duties; and

(16) sign a final order that includes a waiver of the right of appeal pursuant to Section 201.015.

(c) An ~~agreed~~ order described by Subsection (a)(14) that is ~~is, a default order, or a temporary order~~ rendered and signed by an associate judge ~~under Subsection (a)~~ constitutes an order of the referring court.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(14)(D) shall revoke that waiver.

SECTION 2. The heading to Section 201.009, Family Code, is amended to read as follows:

Sec. 201.009. COURT REPORTER; RECORD.

SECTION 3. Sections 201.009(a) and (c), Family Code, are amended to read as follows:

(a) A court reporter may be provided during a hearing held by an associate judge appointed under this chapter. A court reporter is required to be provided when the associate judge presides over a jury trial or a contested final termination hearing.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the [The] record may be preserved [in the absence of a court reporter] by any [other] means approved by the associate judge.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Chavez moved to adopt the conference committee report on **HB 930**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 930** prevailed by (Record 1817): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Alonzo; Darby; Haggerty; Moreno; Oliveira; Parker; Straus; Truitt.

### STATEMENTS OF VOTE

When Record No. 1817 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1817 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

### **SB 1983 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Darby submitted the conference committee report on **SB 1983**.

Representative Darby moved to adopt the conference committee report on **SB 1983**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1983** prevailed by (Record 1818): 139 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; McClendon.

Absent — Callegari; Creighton; Hughes; Moreno; Oliveira.

### STATEMENT OF VOTE

When Record No. 1818 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

(McClendon now present)

**SB 222 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Giddings submitted the conference committee report on **SB 222**.

Representative Giddings moved to adopt the conference committee report on **SB 222**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 222** prevailed by (Record 1819): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Geren; Moreno; Oliveira.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

**SB 1520 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Paxton submitted the conference committee report on **SB 1520**.

Representative Paxton moved to adopt the conference committee report on **SB 1520**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1520** prevailed by (Record 1820): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Oliveira; Villarreal.

### **SB 1383 - HOUSE DISCHARGES CONFEREES HOUSE APPOINTS NEW CONFEREES**

On motion of Representative Harper-Brown, the house discharged the conferees on **SB 1383**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1383**: Smithee, chair; Darby, Morrison, Puente, and Gonzalez Toureilles.

### **HB 568 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 568**, A bill to be entitled An Act relating to the requirements for an affidavit of voluntary relinquishment of parental rights.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 568**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 568**: Puente, chair; Hartnett, Turner, Parker, and Geren.

**HB 2072 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2072**, A bill to be entitled An Act relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.

Representative Phillips moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2072**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2072**: Guillen, chair; Hancock, Peña, Escobar, and Creighton.

**HR 2264 - ADOPTED  
(by Hodge)**

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 2264**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2264**, Commending Jeremy W. Turner for his service as a legislative intern in the office of State Representative Terri Hodge.

**HR 2264** was read and was adopted.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 2264** as signers thereof.

**RESOLUTIONS ADOPTED**

Representative Callegari moved to suspend all necessary rules in order to take up and consider at this time **HR 2266**, **HR 2374 - HR 2377**, **HR 2379 - HR 2381**, **HR 2387 - HR 2401**, **HR 2519 - HR 2521**, **HR 2524**, **HR 2526**, **HR 2528**, **HR 2532**, and **HR 2534 - HR 2544**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 2266** (by Dutton), Honoring Vernon Cannamore on his retirement as the program director of social studies for Galena Park Independent School District.

**HR 2374** (by Chavez), Honoring Beatriz Burciaga for serving as Democratic chair of Precinct 1 in El Paso County.

**HR 2375** (by Chavez), Honoring Judy Lugo for serving as Democratic chair of Precinct 66 in El Paso County.

**HR 2376** (by Chavez), Honoring Robert A. Grijalva for serving as Democratic chair of Precinct 67 in El Paso County.

**HR 2377** (by Chavez), Honoring Ramona De la Paz Torres for serving as Democratic chair of Precinct 68 in El Paso County.

**HR 2379** (by Chavez), Honoring Dolores Zarzosa for serving as Democratic chair of Precinct 70 in El Paso County.

**HR 2380** (by Chavez), Honoring Gabriel Pena for serving as Democratic chair of Precinct 71 in El Paso County.

**HR 2381** (by Strama), Honoring Jessica Gonzalez for her service as a legislative intern in the office of State Representative Mark Strama.

**HR 2387** (by T. King), Commemorating the 100th anniversary of the founding of Crystal City in November 2007.

**HR 2388** (by Chavez), Honoring Calvin Hayward for serving as Democratic chair of Precinct 72 in El Paso County.

**HR 2389** (by Chavez), Honoring Jan "Juana" Engels for serving as Democratic chair of Precinct 73 in El Paso County.

**HR 2390** (by Chavez), Honoring Carmen S. Duarte for serving as Democratic chair of Precinct 74 in El Paso County.

**HR 2391** (by Chavez), Honoring Alfred Escalante, Jr., for serving as Democratic chair of Precinct 75 in El Paso County.

**HR 2392** (by Chavez), Honoring Norman Chavez for serving as Democratic chair of Precinct 76 in El Paso County.

**HR 2393** (by Chavez), Honoring Anna M. Dominguez for serving as Democratic chair of Precinct 78 in El Paso County.

**HR 2394** (by Chavez), Honoring Daniel Lemus for serving as Democratic chair of Precinct 79 in El Paso County.

**HR 2395** (by Chavez), Honoring Naomi Marquez for serving as Democratic chair of Precinct 80 in El Paso County.

**HR 2396** (by Chavez), Honoring Pattielee Pinon for serving as Democratic chair of Precinct 81 in El Paso County.

**HR 2397** (by Chavez), Honoring R. Esther Montoya for serving as Democratic chair of Precinct 82 in El Paso County.

**HR 2398** (by Chavez), Honoring Sebastian Martinez for serving as Democratic chair of Precinct 83 in El Paso County.

**HR 2399** (by Chavez), Honoring Rey Estrada, Sr., for serving as Democratic chair of Precinct 87 in El Paso County.

**HR 2400** (by Chavez), Honoring Enriqueta G. "Queta" Fierro for serving as Democratic chair of Precinct 88 in El Paso County.

**HR 2401** (by Chavez), Honoring JoAn C. Lopez for serving as Democratic chair of Precinct 89 in El Paso County.

**HR 2519** (by Gallego), Recognizing restaurateur Adam Gonzales of Austin for his professional achievements.

**HR 2520** (by Craddick), Congratulating Janette and Richard Bowers of Horseshoe Bay on their 40th wedding anniversary.

**HR 2521** (by Craddick), Congratulating Joanna Carrillo-Rowley on her selection as District 18 Assistant Principal of the Year by the Texas Elementary Principals and Supervisors Association.

**HR 2524** (by Harper-Brown), Honoring the Irving Heritage Society for its service to the community.

**HR 2526** (by Jones and Heflin), Recognizing 2007 as Colon Cancer Prevention and Awareness Year in Texas.

**HR 2528** (by Zedler), Honoring Dr. Tom Annunziato, immediate past president of the Texas Optometric Association.

**HR 2532** (by Deshotel), Recognizing July 17, 2007, as Salon Sanitation Awareness Day.

**HR 2534** (by Deshotel), Congratulating gospel singer and constable of Jefferson County Precinct 6 Joe "Q. B." Stevenson on his singing performance in a Blue Bell Ice Cream commercial.

**HR 2535** (by Deshotel), Congratulating Kristina Lindsey on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

**HR 2536** (by Deshotel), Congratulating Patty Williams on her selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

**HR 2537** (by Deshotel), Congratulating Haley Seymour on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

**HR 2538** (by Deshotel), Congratulating Georgeanne Wallen on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

**HR 2539** (by Deshotel), Congratulating Joe and Linda Domino on their selection for a 2007 Jefferson Award by the Beaumont Enterprise.

**HR 2540** (by Deshotel), Congratulating Chris Gonzales on his selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

**HR 2541** (by Deshotel), Congratulating Margaret DeLong Mason LeBlanc on her selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

**HR 2542** (by Deshotel), Honoring Judge Ransom "Duce" Jones of Beaumont for his efforts to curb truancy.

**HR 2543** (by Dutton), Congratulating Shirley Burks Howard on the occasion of her retirement from the Houston Independent School District on May 23, 2007.

**HR 2544** (by Dutton), Honoring the Reverend Robert L. Thomas, Jr., on three years of service to the Olivet Missionary Baptist Church.

The resolutions were adopted.

**HR 2527 - ADOPTED**  
**(by Kolkhorst)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 2527**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2527**, In memory of Thomas Michael Buzbee of New Waverly.

**HR 2527** was unanimously adopted by a rising vote.

**HR 2529 - ADOPTED**  
**(by Bohac)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 2529**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2529**, In memory of Harris County treasurer and legendary newsman Jack Cato of Houston.

**HR 2529** was unanimously adopted by a rising vote.

**RESOLUTIONS ADOPTED**

Representative Pickett moved to suspend all necessary rules in order to take up and consider at this time **HR 1999, HR 2236, HR 2238 - HR 2240, HR 2242, HR 2243, HR 2245, HR 2247 - HR 2262, HR 2440, HR 2442, HR 2443, HR 2445, HR 2456, HR 2459 - HR 2463, HR 2468 - HR 2472, HR 2479 - HR 2481, HR 2652 - HR 2655, HR 2658 - HR 2668, HR 2670, HR 2672 - HR 2677, and HR 2681 - HR 2695**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 1999** (by Jackson, W. Smith, and Talton), Congratulating Larry and Linda Cernosek of Deer Park on their 30th wedding anniversary.

**HR 2236** (by Morrison), Congratulating the Memorial Dance and Drill Team of Memorial High School in Victoria on winning the national title at the 2007 American Dance Team School International Competition.

**HR 2238** (by Isett), Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.

**HR 2239** (by Martinez Fischer), Honoring Nick LaMantia, the main "12th Man" of the 2006 Texas A&M University Aggie football team.

**HR 2240** (by Martinez Fischer and Herrero), Congratulating Diana Saldana on her appointment as a United States magistrate judge for the United States District Court, Southern District of Texas.

**HR 2242** (by Chavez), Honoring JoAnn G. Robles for serving as Democratic chair of Precinct 27 in El Paso County.

**HR 2243** (by Chavez), Honoring Craig Eric Sharp for serving as Democratic chair of Precinct 54 in El Paso County.

**HR 2244** (by Chavez), Honoring Dolores Salcido for serving as Democratic chair of Precinct 64 in El Paso County.

**HR 2245** (by Chavez), Honoring Sandra Martinez for serving as Democratic chair of Precinct 63 in El Paso County.

**HR 2247** (by Chavez), Honoring Lucia Salcido for serving as Democratic chair of Precinct 61 in El Paso County.

**HR 2248** (by Chavez), Honoring Ernesto J. Dominguez, Jr., for serving as Democratic chair of Precinct 59 in El Paso County.

**HR 2249** (by Chavez), Honoring Tony Petry for serving as Democratic chair of Precinct 58 in El Paso County.

**HR 2250** (by Chavez), Honoring Dora Moreno for serving as Democratic chair of Precinct 56 in El Paso County.

**HR 2251** (by Chavez), Honoring Luis Ruiz for serving as Democratic chair of Precinct 55 in El Paso County.

**HR 2252** (by Chavez), Honoring Yolanda Clay for serving as Democratic chair of Precinct 53 in El Paso County.

**HR 2253** (by Chavez), Honoring Isaac Pepper for serving as Democratic chair of Precinct 51 in El Paso County.

**HR 2254** (by Chavez), Honoring Maria Irene Torres for serving as Democratic chair of Precinct 49 in El Paso County.

**HR 2255** (by Chavez), Honoring Ruth Perez for serving as Democratic chair of Precinct 45 in El Paso County.

**HR 2256** (by Chavez), Honoring Lucia A. Calixtro for serving as Democratic chair of Precinct 42 in El Paso County.

**HR 2257** (by Chavez), Honoring Oliver Barraza for serving as Democratic chair of Precinct 38 in El Paso County.

**HR 2258** (by Chavez), Honoring Rosa M. Rangel for serving as Democratic chair of Precinct 36 in El Paso County.

**HR 2259** (by Chavez), Honoring Sergio Romo for serving as Democratic chair of Precinct 35 in El Paso County.

**HR 2260** (by Chavez), Honoring Soledad "Chloe" Galvan for serving as Democratic chair of Precinct 34 in El Paso County.

**HR 2261** (by Chavez), Honoring Jim Kelly for serving as Democratic chair of Precinct 33 in El Paso County.

**HR 2262** (by Chavez), Honoring Connie Finke for serving as Democratic chair of Precinct 30 in El Paso County.

**HR 2440** (by Deshotel, et al.), Recognizing Noah Erasmo Lopez of Dallas on his first birthday.

**HR 2442** (by W. Smith), Recognizing May 20 to May 26, 2007, as National Public Works Week.

**HR 2443** (by McClendon), Recognizing the San Antonio chapter of the Prairie View A&M University Alumni Association.

**HR 2445** (by Martinez Fischer), Recognizing Valero Energy Corporation on its selection for the number one slot on Fortune magazine's "Best Big Companies to Work For" list.

**HR 2456** (by Oliveira), Congratulating Dr. Selma D. Yznaga on earning an 'Ohana Honors award from Counselors for Social Justice.

**HR 2459** (by Hopson), Commemorating the 100th anniversary of the founding of the Carthage Book Club.

**HR 2460** (by Hopson), Congratulating Charles and Oma Geraldine Flewellen of Beach City on their 50th wedding anniversary.

**HR 2461** (by Hopson), Honoring Lieutenant Rickey Turner on his retirement from the Henderson Police Department.

**HR 2462** (by Flynn), Congratulating the boys' golf team of Edgewood High School on winning the 2A State Championship.

**HR 2463** (by Miller), Honoring the boys' track and field team of Copperas Cove High School for winning the UIL Class 4A State Championship.

**HR 2468** (by P. King), Honoring Johnie Herbert for his nine years of service on the Weatherford City Council.

**HR 2469** (by P. King), Congratulating the Trinity Christian Academy girls' basketball team on winning the 2007 Texas Christian Athletic Fellowship district championship and advancing to the state championship final.

**HR 2470** (by P. King), Congratulating the Eagles football team of Trinity Christian Academy in Willow Park for winning the 2006 Texas Christian Schools Athletic Fellowship Division 1 state championship in six-man football.

**HR 2471** (by P. King), Congratulating the Trinity Christian Academy girls' tennis team on its success at the 2007 Texas Christian Athletic Fellowship state tennis tournament.

**HR 2472** (by P. King), Congratulating the Trinity Christian Academy baseball team on winning the 2007 Texas Christian Athletic Fellowship state championship.

**HR 2479** (by Noriega), Congratulating Timur Tsend and Laura DeLeon on their wedding.

**HR 2480** (by Rose), Honoring Francis E. Bartley on his graduation from Texas State University-San Marcos, his service as the TSU System's first student regent, and his work as a legislative intern in the TSU Office of Governmental Relations.

**HR 2481** (by Rose), Honoring Amberlyn Fett of Dripping Springs on her receipt of the Youth Good Samaritan Award from the Central Texas Red Cross Association.

**HR 2652** (by Flynn), Commemorating the 25th anniversary of Wills Point International Outreach Church.

**HR 2653** (by Raymond), Commending the Honorable Nathan Macias for his service to his state and nation.

**HR 2654** (by Raymond), Commending the Honorable Joe Farias of San Antonio for his outstanding military service to this country.

**HR 2655** (by Raymond), Commending the Honorable Juan M. Garcia III for his outstanding service to this country.

**HR 2658** (by D. Howard), Congratulating Arthur W. and Jane E. Day on the occasion of their 50th wedding anniversary.

**HR 2659** (by Morrison), Honoring the Port of Victoria for its contributions to the State of Texas.

**HR 2660** (by Branch), Congratulating the nine Texas students who have been named to the 2007 U.S. Lacrosse Men's Division High School All-America Team.

**HR 2661** (by Branch), Congratulating William Lawson of Highland Park High School on being named to the 2007 U.S. Lacrosse Men's Division High School All-America Team.

**HR 2662** (by Branch), Congratulating Rhett Miller and Alex Hardt of the Episcopal School of Dallas on being named to the 2007 U.S. Lacrosse Men's Division High School All-America Team.

**HR 2663** (by Branch), Congratulating Spencer Branch and George Lauinger of St. Mark's School of Texas in Dallas on being named to the 2007 U.S. Lacrosse Men's Division High School All-America Team.

**HR 2664** (by Escobar), Honoring Roel M. Villarreal on his retirement as the director of financial aid for Texas A&M University-Kingsville.

**HR 2665** (by Escobar), Congratulating Andrew Hernandez of Raymondville on winning the 800-meter race at the 2007 UIL state track meet.

**HR 2666** (by Escobar), Commemorating the 101st anniversary of First Baptist Church of Falfurrias.

**HR 2667** (by Straus), Congratulating Sunshine Cottage School for Deaf Children in San Antonio on its 60th anniversary.

**HR 2668** (by T. Smith), Recognizing the participants of the Bedford Heights Elementary School Spanish Immersion Program.

**HR 2670** (by T. Smith), Commemorating the third anniversary of the founding of the Welcome Home a Hero program.

**HR 2672** (by T. Smith), Honoring Boyd and Nan Mercer of Hurst on their 60th wedding anniversary.

**HR 2673** (by Jackson), Congratulating Kristy Lora Eanes and John Michael Eanes on the birth of their son, Kyle Michael Eanes.

**HR 2674** (by Jackson), Congratulating Ann Duffy on her graduation from The University of Texas at Austin.

**HR 2675** (by Hill), Honoring Michael "Mick" Massey on his service as the legislative chair of the Texas Recreation and Park Society.

**HR 2676** (by Hill), Commending Police Chief Larry Zacharias for his years of service to the Richardson Police Department and for his service as legislative committee chair of the Texas Police Chiefs Association.

**HR 2677** (by Geren), Commending Tom Dickerson for his service to the Texas Nursery and Landscape Association.

**HR 2681** (by Merritt), Commemorating the 25th anniversary of the establishment of St. Mary's Catholic Church in Longview.

**HR 2682** (by Goolsby), Honoring Patricia A. Liendo on her graduation from The University of Texas at Austin.

**HR 2683** (by Peña), Honoring Veronica "Ronnie" Cortez and Clay Cortez of Austin for their service as house pages.

**HR 2684** (by Peña), Congratulating The University of Texas-Pan American ROTC Battalion on earning the 2006 General Douglas MacArthur Award.

**HR 2685** (by Peña), Commending Victor Anthony Flores of Edinburg on his service as a legislative intern in the office of Representative Aaron Pena.

**HR 2686** (by Peña), Commending John Nicholas de la Vina for his service as a legislative aide in the office of Representative Aaron Pena.

**HR 2687** (by Peña), Commending Maricela De Leon for her exemplary service as a legislative intern in the office of State Representative Aaron Pena.

**HR 2688** (by Peña), Congratulating Linh Gia Luong on being named the 2007 salutatorian for Edinburg High School.

**HR 2689** (by Peña), Honoring Linda Isela Figueroa on being named the 2007 valedictorian at Edinburg High School.

**HR 2690** (by Peña), Recognizing the second annual Texas Cook 'Em barbecue cook-off in Edinburg.

**HR 2691** (by Herrero), Congratulating the Corpus Christi Young Lawyers Association on earning first place in the Texas Young Lawyers Association Awards of Achievement Program.

**HR 2692** (by Giddings), Requesting certain junior college districts to evaluate the implementation of an African American studies program.

**HR 2693** (by B. Brown), Recognizing Mayor Frances R. Anderson of Terrell for her contributions to her community.

**HR 2694** (by B. Brown), Honoring Ruth Hellums on the dedication of the Ruth Hellums Homecoming Pavilion at Cottonwood Baptist Church.

**HR 2695** (by B. Brown), Recognizing Andrew Carroll Boening for his service as an administrative aide in the office of State Representative Betty Brown and on his graduation from The University of Texas at Austin.

The resolutions were adopted.

#### **RESOLUTIONS ADOPTED**

Representative Pickett moved to suspend all necessary rules in order to take up and consider at this time **HR 2027 - HR 2029, HR 2444, HR 2446, HR 2474, HR 2476, HR 2477, HR 2657, and HR 2680.**

The motion prevailed.

The following resolutions were laid before the house:

**HR 2027** (by Hilderbran), In memory of David L. Vetter of Ingram.

**HR 2028** (by Hilderbran), In memory of Kenneth Brice Shackelford of Real County.

**HR 2029** (by Hilderbran), In memory of Rena Joe Patterson Johnson of Rocksprings.

**HR 2444** (by Gallego), In memory of Zina Keith Worley of Del Rio.

**HR 2446** (by Herrero, et al.), In memory of Ruben Dario Cavada of Corpus Christi.

**HR 2474** (by Harless), In memory of Franne R. Michaels of Houston.

**HR 2476** (by Garcia), In memory of Farrah "Vick" Vickers of Sinton.

**HR 2477** (by Rose), In memory of Paula Kay Wolking of San Marcos.

**HR 2657** (by Gattis), In memory of Jim Wilson of Granite Shoals.

**HR 2680** (by Bohac), In memory of Hugh Alexander LeVrier.

The resolutions were unanimously adopted by a rising vote.

**RESOLUTIONS ADOPTED**

Representative R. Cook moved to suspend all necessary rules in order to take up and consider at this time **HCR 253, HCR 258, HCR 263, HR 2569, HR 2570, HR 2572 - HR 2575, HR 2577 - HR 2580, HR 2582, HR 2584 - HR 2586, HR 2589, HR 2591 - HR 2608, HR 2610, HR 2612 - HR 2616, HR 2622, HR 2623, HR 2625, HR 2626, HR 2630 - HR 2632, HR 2634, and HR 2636 - HR 2651.**

The motion prevailed.

The following resolutions were laid before the house:

**HCR 253** (by Kuempel and D. Howard), Honoring Thomas L. Johnson, Sr., on his induction into the Texas Transportation Institute Hall of Honor.

**HCR 258** (by Gonzalez Toureilles), Honoring the city of Orange Grove on its centennial.

**HCR 263** (by T. Smith), Commemorating the posthumous induction of former American Airlines president C. R. Smith into the Texas Transportation Hall of Honor.

**HR 2569** (by Escobar), Congratulating Roberto Gonzalez of Falfurrias on his athletic achievements.

**HR 2570** (by Escobar), Commending Juanita Tijerina for her work as a legislative aide in the office of State Representative Juan Manuel Escobar.

**HR 2572** (by Geren), Recognizing the Patriot Guard Riders for their tributes to our nation's fallen military personnel and for their support of those individuals' families and communities.

**HR 2573** (by Gattis), Honoring Judge John Doerfler on his retirement as county judge of Williamson County.

**HR 2574** (by Gattis), Commending Jane Tableriou for her years of service to Williamson County.

**HR 2575** (by Bohac), Honoring John L. Oden of Houston on his 101st birthday.

**HR 2577** (by Herrero), Honoring the state-qualifying powerlifters of Banquete High School.

**HR 2578** (by Dutton), Congratulating Linda and David Brooks of Austin on the birth of their daughter, Julia Hazel Brooks.

**HR 2579** (by Raymond), Commending the Honorable Dr. Jimmie Don Aycock of Killeen for his outstanding military service to this country.

**HR 2580** (by Raymond), Commending the Honorable Thomas R. Latham of Sunnyvale for his outstanding military service to his country.

**HR 2582** (by Frost), Commemorating the 10th anniversary of the founding of the West Bowie County Rotary Club.

**HR 2584** (by Krusee), Congratulating Isaac Norman of Taylor on the inclusion of his house in the National Register of Historic Places.

**HR 2585** (by Flynn), Honoring East Tawakoni on its 40th anniversary.

**HR 2586** (by Harper-Brown), Congratulating Ray and Ida Massey of Irving on their 60th wedding anniversary.

**HR 2589** (by Craddick), Commending the students of Midland ISD who volunteered their time to Midland Teen Court.

**HR 2591** (by Murphy), Honoring Salim Jaradi Ahmad for serving as Republican Party precinct chair of Precinct 96 in Harris County.

**HR 2592** (by Murphy), Honoring Charles Alcorn for serving as Republican Party precinct chair of Precinct 438 in Harris County.

**HR 2593** (by Bolton), Honoring Liz Rawls on her retirement from the office of the Texas Comptroller of Public Accounts.

**HR 2594** (by Murphy), Honoring Bob Blackmer for serving as Republican Party precinct chair of Precinct 338 in Harris County.

**HR 2595** (by Murphy), Honoring Helen Bledsoe for serving as Republican Party precinct chair of Precinct 626 in Harris County.

**HR 2596** (by Murphy), Honoring Paulette Burkhart for serving as Republican Party precinct chair of Precinct 493 in Harris County.

**HR 2597** (by Murphy), Honoring Steve Dorman for serving as Republican Party precinct chair of Precinct 130 in Harris County.

**HR 2598** (by Murphy), Honoring Shelly Hillman for serving as Republican Party precinct chair of Precinct 504 in Harris County.

**HR 2599** (by Murphy), Honoring Jack Jones for serving as Republican Party precinct chair of Precinct 499 in Harris County.

**HR 2600** (by Murphy), Honoring Robert Kerr for serving as Republican Party precinct chair of Precinct 508 in Harris County.

**HR 2601** (by Murphy), Honoring Roman Klein for serving as Republican Party precinct chair of Precinct 437 in Harris County.

**HR 2602** (by Murphy), Honoring Mary K. Maxwell for serving as Republican Party precinct chair of Precinct 483 in Harris County.

**HR 2603** (by Murphy), Honoring Stewart Mayper for serving as Republican Party precinct chair of Precinct 492 in Harris County.

**HR 2604** (by Murphy), Honoring Jim McSpadden for serving as Republican Party precinct chair of Precinct 727 in Harris County.

**HR 2605** (by Murphy), Honoring Larry Pound for serving as Republican Party precinct chair of Precinct 356 in Harris County.

**HR 2606** (by Murphy), Honoring Sandy Steffes for serving as Republican Party precinct chair of Precinct 395 in Harris County.

**HR 2607** (by Murphy), Honoring Warren Stevens for serving as Republican Party precinct chair of Precinct 429 in Harris County.

**HR 2608** (by Murphy), Honoring Jeff Williams for serving as Republican Party precinct chair of Precinct 625 in Harris County.

**HR 2610** (by Rodriguez), Honoring attorney Barbara Hines for her work in behalf of immigrant rights.

**HR 2612** (by Hernandez), Commending all the participants in the Texas Legislative Internship Program during the 80th Legislative Session.

**HR 2613** (by Noriega), Congratulating Lieutenant Colonel William M. Pina on his retirement from the Texas Army National Guard.

**HR 2614** (by Noriega), Congratulating Gary Walston on his retirement from the Texas ESGR program.

**HR 2615** (by Corte), Honoring Derba Mills, the founder of Clothesline Cleaners.

**HR 2616** (by Corte), Honoring Thomas H. Dickerson for his service to his profession and community.

**HR 2622** (by Hughes), Honoring the 60th anniversary of KMHT Radio in Marshall.

**HR 2623** (by Raymond), Commending the Honorable Allen Vaught of Dallas for his outstanding military service to this country.

**HR 2625** (by S. King), Honoring Renee Clark of Wylie High School for her work with the school's UIL academic team.

**HR 2626** (by S. King), Honoring Terri Burke for her years of service to the Abilene Reporter-News.

**HR 2630** (by Hill), Congratulating the Richardson High School mock trial team on its state championship and its success at the national championships.

**HR 2631** (by Hill), Congratulating the Richardson High School Robotics Team on winning the Bots IQ 2007 national competition.

**HR 2632** (by Hill), Recognizing Melissa Henderson of Berkner High School in Richardson on her selection as the 2006-2007 Gatorade National Girls Soccer Player of the Year.

**HR 2634** (by Hilderbran), Commemorating the 250th anniversary of the founding of the Presidio de San Saba and Mission Santa Cruz de San Saba in Menard.

**HR 2636** (by Parker), Honoring Stacie McClinton for her kidney donation to her husband, Clay McClinton, and commending both Mr. and Mrs. McClinton for their efforts to encourage organ donation.

**HR 2637** (by Hernandez), Honoring Harold Boone, Jr., for his participation in the Texas Legislative Internship Program.

**HR 2638** (by Pickett), Recognizing the 150th anniversary of the historic El Paso & Southwestern Locomotive No. 1.

**HR 2639** (by Hernandez), Honoring Kimberly Player for her participation in the Texas Legislative Internship Program.

**HR 2640** (by Hernandez), Honoring Keshia Babin for her participation in the Texas Legislative Internship Program.

**HR 2641** (by Hernandez), Honoring Heather Ragsdale for her participation in the Texas Legislative Internship Program.

**HR 2642** (by Hernandez), Honoring Angela Owens of Houston for her participation in the Texas Legislative Internship Program.

**HR 2643** (by Hernandez), Honoring Namitha Jacob of Missouri City for her participation in the Texas Legislative Internship Program.

**HR 2644** (by Hernandez), Honoring James C. Lacey for his participation in the Texas Legislative Internship Program.

**HR 2645** (by Hernandez), Honoring Stefani Garcia of Houston for her participation in the Texas Legislative Internship Program.

**HR 2646** (by Hernandez, et al.), Honoring Cynthia D. Brum for her participation in the Texas Legislative Internship Program.

**HR 2647** (by Hernandez), Honoring Edwin Ortiz of Austin for his participation in the Texas Legislative Internship Program.

**HR 2648** (by Hernandez), Honoring Rashandra Hayes for her participation in the Texas Legislative Internship Program.

**HR 2649** (by Hernandez), Honoring Michael Floissac of Houston for his participation in the Texas Legislative Internship Program.

**HR 2650** (by Craddick), Congratulating Don and Virginia McPeak of Midland on their 65th wedding anniversary.

**HR 2651** (by Flynn), Congratulating Tommy and Ann Evans of Quinlan on their 50th wedding anniversary.

The resolutions were adopted.

### **RESOLUTIONS ADOPTED**

Representative R. Cook moved to suspend all necessary rules in order to take up and consider at this time **HR 2568**, **HR 2571**, **HR 2587**, **HR 2590**, **HR 2620**, **HR 2621**, **HR 2627**, **HR 2629**, and **HR 2633**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 2568** (by Escobar), In memory of the Honorable Reynaldo M. Munoz, justice of the peace of Precinct 1 in Kleberg County.

**HR 2571** (by Deshotel), In memory of Yolanda King.

**HR 2587** (by McCall), In memory of former First Lady of Texas Idanell "Nellie" Connally.

**HR 2590** (by Macias), In memory of U.S. Army Corporal Anthony M. Bradshaw of New Braunfels.

**HR 2620** (by Gallego), In memory of U.S. Army Private Oscar Saucedo, Jr., of Del Rio.

**HR 2621** (by Taylor), In memory of Israel Louis Schwartz.

**HR 2627** (by Mowery), In memory of U.S. Army Specialist Lance C. Springer III of Fort Worth.

**HR 2629** (by Krusee), In memory of U.S. Marine Sergeant Christopher M. Zimmerman of Stephenville.

**HR 2633** (by Hardcastle), In memory of U.S. Army Specialist Ryan Collins of Vernon.

The resolutions were unanimously adopted by a rising vote.

### RESOLUTIONS ADOPTED

Representative Kuempel moved to suspend all necessary rules in order to take up and consider at this time **HR 2402, HR 2404, HR 2407, HR 2409, HR 2412, HR 2416, HR 2422, HR 2424 - HR 2437, HR 2439, HR 2484, HR 2486, HR 2496, HR 2498 - HR 2518, HR 2547 - HR 2559, HR 2561 - HR 2565, and HR 2567.**

The motion prevailed.

The following resolutions were laid before the house:

**HR 2402** (by Gonzales), Honoring Morris and Rita Atlas of McAllen on the establishment of a UT scholarship in their name by the Hidalgo-Starr Texas Exes.

**HR 2404** (by Zedler), Honoring Dr. Carolyn R. Carman-Merrifield of Mansfield for her professional achievements.

**HR 2407** (by Truitt), Congratulating Kristopher Puddy and Ragan Clay on their wedding.

**HR 2409** (by R. Cook), Honoring Southside Market and Barbecue of Elgin on its 125th anniversary.

**HR 2412** (by Farrar), Commemorating the 13th anniversary of the first keg shipped by the Saint Arnold Brewing Company of Houston.

**HR 2416** (by Eiland), Recognizing May 21-28, 2007, as National Beach Safety Week in Galveston.

**HR 2422** (by Dunnam), Honoring Evelyn Howard on being named the 2006 Caregiver of the Year by Visiting Angels Living Assistance Services.

**HR 2424** (by Craddick), Congratulating Hector "Rocky" Valdes on his selection as District 18 Principal of the Year by the Texas Elementary Principals and Supervisors Association.

**HR 2425** (by Craddick), Congratulating Ed and Marilee Runyan of Midland on their 50th wedding anniversary.

**HR 2426** (by Craddick), Congratulating Cassandra Lyons of DeZavala Elementary School in Midland for being named a Wal-Mart Teacher of the Year.

**HR 2427** (by T. Smith), Congratulating Ian Slinker of Trinity High School on becoming a National Merit Scholar finalist.

**HR 2428** (by T. Smith), Congratulating James Mercado of Trinity High School on becoming a National Merit Scholar finalist.

**HR 2429** (by T. Smith), Congratulating Kaitlyn Bryant of Trinity High School on becoming a National Merit Scholar finalist.

**HR 2430** (by T. Smith), Congratulating Katie Baker of Trinity High School on becoming a National Merit Scholar finalist.

**HR 2431** (by T. Smith), Congratulating Sam Smith of L .D. Bell High School on becoming a National Merit Scholar finalist.

**HR 2432** (by T. Smith), Congratulating Nicole Rowlette of L. D. Bell High School on becoming a National Merit Scholar finalist.

**HR 2433** (by T. Smith), Honoring Dr. Lynne Rigg on her retirement from Hurst-Euless-Bedford Independent School District as the deputy superintendent for business operations.

**HR 2434** (by T. Smith), Congratulating Alyssa Nabors of L. D. Bell High School on becoming a National Merit Scholar finalist.

**HR 2435** (by T. Smith), Congratulating Ben Fain of L.D. Bell High School on becoming a National Merit Scholar finalist.

**HR 2436** (by T. Smith), Congratulating Brian Balthrop of L. D. Bell High School on becoming a National Merit Scholar finalist.

**HR 2437** (by T. Smith), Congratulating Alexandra Weeks of L. D. Bell High School on becoming a 2006-2007 National Hispanic Recognition Scholar.

**HR 2439** (by Escobar), Commending Erin Atwood for her work as an education policy analyst in the office of State Representative Juan Manuel Escobar.

**HR 2484** (by Merritt), Congratulating Lindale native Miranda Lambert for winning the New Female Vocalist honor at the Academy of Country Music Awards.

**HR 2486** (by Merritt), Commemorating the 25th anniversary of the establishment of St. Mary's Catholic Church in Longview.

**HR 2496** (by Vaught), Honoring Evelyn Korn of Dallas on her 100th birthday.

**HR 2498** (by Zedler), Commending Melba McDowell of Tarrant County for her civic service and political activism.

**HR 2499** (by Chavez), Honoring Maria Castanon-Williams for serving as Democratic chair of Precinct 90 in El Paso County.

**HR 2500** (by Chavez), Honoring Santiago L. Rodriguez for serving as Democratic chair of Precinct 92 in El Paso County.

**HR 2501** (by Chavez), Honoring Rose Maya for serving as Democratic chair of Precinct 93 in El Paso County.

**HR 2502** (by Chavez), Honoring Manuel Moreno for serving as Democratic chair of Precinct 94 in El Paso County.

**HR 2503** (by Chavez), Honoring Ceci Carpio for serving as Democratic chair of Precinct 98 in El Paso County.

**HR 2504** (by Chavez), Honoring Pat White for serving as Democratic chair of Precinct 96 in El Paso County.

**HR 2505** (by Chavez), Honoring Richard Martinez for serving as Democratic chair of Precinct 101 in El Paso County.

**HR 2506** (by Chavez), Honoring Al Briones for serving as Democratic chair of Precinct 100 in El Paso County.

**HR 2507** (by Chavez), Honoring Clarissa S. Elias for serving as Democratic chair of Precinct 99 in El Paso County.

**HR 2508** (by Chavez), Honoring Maria Anchondo for serving as Democratic chair of Precinct 104 in El Paso County.

**HR 2509** (by Chavez), Honoring Ruth Williams for serving as Democratic chair of Precinct 103 in El Paso County.

**HR 2510** (by Chavez), Honoring Antonio R. Franco for serving as Democratic chair of Precinct 102 in El Paso County.

**HR 2511** (by Chavez), Honoring Albert Alvidrez for serving as Democratic chair of Precinct 110 in El Paso County.

**HR 2512** (by Chavez), Honoring Gabriela Catellano for serving as Democratic chair of Precinct 109 in El Paso County.

**HR 2513** (by Chavez), Honoring Annabell Perez for serving as Democratic chair of Precinct 108 in El Paso County.

**HR 2514** (by Chavez), Honoring Argelia Torres for serving as Democratic chair of Precinct 119 in El Paso County.

**HR 2515** (by Chavez), Honoring Margarita Duran for serving as Democratic chair of Precinct 117 in El Paso County.

**HR 2516** (by Chavez), Honoring Larry Arms for serving as Democratic chair of Precinct 115 in El Paso County.

**HR 2517** (by Chavez), Honoring Norma Borunda for serving as Democratic chair of Precinct 112 in El Paso County.

**HR 2518** (by Chavez), Honoring Aurelia Roque for serving as Democratic chair of Precinct 123 in El Paso County.

**HR 2547** (by S. King), Honoring Jack Maxwell for the creation of the sculpture Jacob's Dream for Abilene Christian University.

**HR 2548** (by Hernandez), Honoring Rose Springs for serving as Democratic Party precinct chair of Precinct 229 in Harris County.

**HR 2549** (by Hernandez), Honoring Tony Valdez for serving as Democratic Party precinct chair of Precinct 79 in Harris County.

**HR 2550** (by Hernandez), Honoring Wilbert F. Biggs for serving as Democratic Party precinct chair of Precinct 81 in Harris County.

**HR 2551** (by Hernandez), Honoring Myrna Green for serving as Democratic Party precinct chair of Precinct 266 in Harris County.

**HR 2552** (by Hernandez), Honoring Joe R. Reyna for serving as Democratic Party precinct chair of Precinct 188 in Harris County.

**HR 2553** (by Hernandez), Honoring Jan C. Crenshaw for serving as Democratic Party precinct chair of Precinct 375 in Harris County.

**HR 2554** (by Hernandez), Honoring James Lopez for serving as Democratic Party precinct chair of Precinct 530 in Harris County.

**HR 2555** (by Hernandez), Honoring Eric Zuniga for serving as Democratic Party precinct chair of Precinct 62 in Harris County.

**HR 2556** (by Hernandez), Honoring Richard V. Cortez for serving as Democratic Party precinct chair of Precinct 64 in Harris County.

**HR 2557** (by Hernandez), Honoring Robert C. Clowers for serving as Democratic Party precinct chair of Precinct 208 in Harris County.

**HR 2558** (by Hernandez), Honoring Patricia Montoya for serving as Democratic Party precinct chair of Precinct 191 in Harris County.

**HR 2559** (by Hernandez), Honoring Wayne Nichols for serving as Democratic Party precinct chair of Precinct 163 in Harris County.

**HR 2561** (by Bohac), Congratulating Raymond Jacob Garcia of Houston on achieving the rank of Eagle Scout.

**HR 2562** (by Escobar), Honoring Coach Richard Cundiff on his retirement as head football coach at Texas A&M University-Kingsville.

**HR 2564** (by Escobar), Congratulating Alice G. Mendoza of Kingsville on her appointment to the Texas State Board of Pharmacy.

**HR 2565** (by Escobar), Congratulating Tiffany Vargas of Raymondville for winning regional, state, and national powerlifting championships.

**HR 2567** (by Escobar), Honoring America's Last Patrol, Inc., for its efforts in behalf of POWs, MIAs, and their families.

The resolutions were adopted.

**RESOLUTIONS ADOPTED**

Representative Kuempel moved to suspend all necessary rules in order to take up and consider at this time **HR 2408**, **HR 2410**, **HR 2487**, **HR 2490**, **HR 2497**, **HR 2546**, **HR 2563**, and **HR 2566**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 2408** (by Bohac), In memory of Mary Margaret Hughes of Houston.

**HR 2410** (by Hilderbran), In memory of Stu Mitchell of Kerrville.

**HR 2487** (by Vaught), In memory of U.S. Army Colonel Jack "Jay" Cozby, Jr., of Dallas.

**HR 2490** (by Olivo), In memory of Icidro R. Flores of Sinton.

**HR 2497** (by Vaught), In memory of Carolyn Kay Bass of Plano.

**HR 2546** (by Vaught), In memory of poet Wendy Dimmette of Dallas.

**HR 2563** (by Escobar), In memory of Andres Roman Saenz of Falfurrias.

**HR 2566** (by Escobar), In memory of U.S. Navy Petty Officer Third Class Ronchester Mananga Santiago of Kingsville.

The resolutions were unanimously adopted by a rising vote.

**HB 1495 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

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

**HB 1495**, A bill to be entitled An Act relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

Representative Callegari moved to concur in the senate amendments to **HB 1495**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1821): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel;

Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Coleman; Moreno; O'Day; Oliveira.

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

Amend **HB 1495** (Senate Committee Printing) as follows:

(1) In SECTION 5 of the bill, (page 2, line 18), strike "August 31, 2007" and insert January 31, 2008.

(2) In SECTION 7 of the bill, (page 2, line 27), strike "September 1, 2007" and insert February 1, 2008.

### **HB 2460 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2460**, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on the Arts.

Representative Flynn moved to concur in the senate amendments to **HB 2460**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1822): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz;

Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — McCall; Moreno; Murphy; Oliveira.

### Senate Committee Substitute

**CSHB 2460**, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on the Arts.

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

SECTION 1. Section 444.002(a), Government Code, is amended to read as follows:

(a) The Texas Commission on the Arts is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009 [~~2007~~].

SECTION 2. Section 444.003(b), Government Code, is amended to read as follows:

(b) A person may not be a member of [~~is not eligible for appointment to~~] the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money from the commission;

(2) owns or controls, directly or indirectly, [~~directly owns or controls~~] more than a 10 percent interest in a business entity or other organization receiving money [funds] from the commission; or

(3) [~~(2)~~] uses or receives a substantial amount of tangible goods, services, or money [funds] from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

SECTION 3. Sections 444.006(a), (b), (d), (f), and (g), Government Code, are amended to read as follows:

(a) A person may not be [~~serve as~~] a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of art; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of art [~~An officer, employee, or paid consultant of a Texas trade association in the field of art may not be a member of the commission or employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.~~].

(d) It is a ground for removal from the commission that [~~#~~] a member:

(1) does not have at the time of taking office the qualifications required by Section 444.003(a) [~~violates a prohibition established by this section~~];

(2) does not maintain during service on the commission the qualifications required by Section 444.003(a);

(3) is ineligible for membership under Subsection (a) or (b);

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the member's term [~~for which the member is appointed~~]; or

(5) [~~↔~~] is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by majority vote of the commission.

(f) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(g) In [~~For the purposes of~~] this section, [~~a~~] "Texas trade association" means [~~is~~] a [~~nonprofit,~~] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest [~~obtaining public money or influencing governmental policy~~].

SECTION 4. Section 444.012, Government Code, is amended to read as follows:

Sec. 444.012. [~~INFORMATION OF INTEREST;~~] COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

~~(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition [prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies].~~

~~(b) The commission by rule shall establish methods by which consumers and grant recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission.~~

~~(e) The commission shall keep information about each complaint filed with the commission. The information must include:~~

~~(1) the date the complaint is received;~~

~~(2) the name of the complainant;~~

~~(3) the subject matter of the complaint;~~

~~(4) a record of all persons contacted in relation to the complaint;~~

~~(5) a summary of the results of the review or investigation of the complaint; and~~

~~(6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.~~

~~(d) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint, and the persons or entities complained about, the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint, and the persons or entities complained about, of the status of the complaint unless the notice would jeopardize an undercover investigation.]~~

SECTION 5. Section 444.014, Government Code, is amended by amending Subsections (b) and (c) and by adding Subsection (d) to read as follows:

(b) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with [Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under] this section.

(c) The training program must provide the person with information [to the member] regarding:

(1) the [enabling] legislation that created the commission; its programs, functions, rules, and budget [and its policy making body to which the member is appointed to serve];

(2) the results of the most recent formal audit of [the programs operated by] the commission;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflict of interest [role and functions of the commission]; and

- (4) ~~the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~  
~~[(5) the current budget for the commission;~~  
~~[(6) the results of the most recent formal audit of the commission;~~  
~~[(7) the requirements of the:~~  
~~[(A) open meetings law, Chapter 551;~~  
~~[(B) open records law, Chapter 552; and~~  
~~[(C) administrative procedure law, Chapter 2001;~~  
~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~  
~~[(9)] any applicable ethics policies adopted by the commission or the Texas Ethics Commission.~~

(d) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 6. Subchapter A, Chapter 444, Government Code, is amended by adding Sections 444.015, 444.016, and 444.017 to read as follows:

Sec. 444.015. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 444.016. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Sec. 444.017. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

(a) The commission shall:

(1) comply with and implement the management action recommendations regarding the commission adopted by the Sunset Advisory Commission on January 10, 2007, as a result of its review of the commission; and

(2) report to the Sunset Advisory Commission not later than November 1, 2008, the information the Sunset Advisory Commission requires regarding the commission's implementation of the recommendations under Subdivision (1).

(b) This section expires June 1, 2009.

SECTION 7. Section 444.024, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt rules to govern the review, approval, and oversight of special initiative grants. The rules must provide for:

(1) commission approval of special initiative grants, including expedited approval of the grants in limited circumstances for cases requiring immediate action;

(2) criteria to be used in reviewing and evaluating special initiative grant applications; and

(3) procedures to be used in determining the amounts of the special initiative grants.

SECTION 8. Section 444.025, Government Code, is amended by adding Subsection (j) to read as follows:

(j) The commission shall adopt rules to govern its acceptance of private gifts, grants, and donations to ensure that the use of the money or property supports the commission's primary functions. At a minimum, the rules must:

(1) require the commission to evaluate a gift, grant, or donation before acceptance to ensure that the purpose of the gift, grant, or donation supports the commission's priorities as established by statute and the commission's appropriations pattern;

(2) prohibit the commission from creating and directly administering programs for the purpose of qualifying for or complying with a condition for the acceptance of private funding; and

(3) require the commission, before acceptance of a gift, grant, or donation, to evaluate any obligations the commission would have to meet in order to accept the gift, grant, or donation, including required matching funds, the amount of staff time and effort, and any other additional costs.

SECTION 9. Section 444.006(c), Government Code, is repealed.

SECTION 10. (a) In this section:

(1) "Sunset commission" means the Sunset Advisory Commission.

(2) "Commission" means the Texas Commission on the Arts.

(b) In performing its duties under Chapter 325, Government Code (Texas Sunset Act), during the period before the commission is scheduled to be abolished, the sunset commission shall focus on the commission's expenditures, including determining the percentage of available funding spent by the commission on overhead and administrative costs. The sunset commission may include any recommendations it considers appropriate in its report to the 81st Legislature.

(c) This section expires September 1, 2009.

SECTION 11. Not later than March 1, 2008, the Texas Commission on the Arts shall:

(1) adopt the rules required by Sections 444.024(d) and 444.025(j), Government Code, as added by this Act; and

(2) adopt the policies required by Sections 444.015 and 444.016, Government Code, as added by this Act.

SECTION 12. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Texas Commission on the Arts do not affect the entitlement of a member serving on the Texas Commission on the Arts immediately before September 1, 2007, to continue to serve and function as a member of the Texas Commission on the Arts for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2007.

(b) The changes in law made by this Act to Section 444.012, Government Code, relating to the investigation of a complaint filed with the Texas Commission on the Arts apply only to a complaint filed on or after September 1, 2007. A complaint filed with the commission before September 1, 2007, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2007.

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

Amend **CSHB 2460** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 444.002(a), Government Code (page 1, line 18), strike "2009" and substitute "2013".

(2) In subsection (b), SECTION 10 of the bill (page 4, line 59), strike "81st" and substitute "83rd".

(3) In subsection (c), SECTION 10 of the bill (page 4, line 61), strike "2009" and substitute "2013".

#### **HB 2541 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2541**, A bill to be entitled An Act relating to emergency response costs and certain other requirements concerning solid waste facilities, including recycling facilities.

Representative Herrero moved to concur in the senate amendments to **HB 2541**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1823): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias;

Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Anchia; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 2541**, A bill to be entitled An Act relating to emergency response costs and certain other requirements concerning solid waste facilities, including recycling facilities.

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

SECTION 1. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0145 to read as follows:

Sec. 361.0145. RESPONSE TO OR REMEDIATION OF FIRE OR EMERGENCY. (a) The commission may make an immediate response to or remediation of a fire or other emergency that involves solid waste, including processed or unprocessed material suitable for recycling or composting, as the commission determines necessary to protect the public health or safety.

(b) Notwithstanding Section 361.014(b), revenue otherwise dedicated under that section may be used for an action authorized by Subsection (a).

(c) The commission may recover from a person who is responsible for the solid waste as provided by Section 361.271 the reasonable expenses incurred by the commission during an immediate response and remediation action under Subsection (a). The state may bring an action to recover those reasonable expenses.

(d) If the commission used for an action under Subsection (a) money otherwise dedicated under Section 361.014(b), money recovered under Subsection (c) shall be deposited in the state treasury to the credit of the commission until the amount deposited equals the amount of the dedicated money used. Money credited under this subsection may be used only as provided by Section 361.014(b).

SECTION 2. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.1191 to read as follows:

Sec. 361.1191. REGULATION OF CERTAIN RECYCLING FACILITIES IN CERTAIN COUNTIES. (a) This section applies only to a municipal solid waste recycling facility that does not hold a permit or registration issued by the commission that stores combustible materials to produce mulch or compost and is located in a county that:

(1) has a population of more than 1.3 million; and

(2) includes areas designated as a recharge or transition zone of an aquifer as defined under the commission's Edwards Aquifer Protection Program that is the sole or principal source of drinking water for an area designated under Section 1424(e), Safe Drinking Water Act of 1974 (42 U.S.C. Section 300h-3(e)) and by the Environmental Protection Agency as the Edwards Underground Reservoir under 40 Federal Register 58344.

(b) The commission by rule shall:

(1) prescribe time limits for processing and removing materials from a facility;

(2) limit the amount of combustible material that may be stored at a recycling facility;

(3) limit the size of a pile of combustible recyclable or recycled materials, including composting materials or mulch, at a recycling facility;

(4) impose different standards for a recycling facility appropriate to the size and number of piles of combustible materials to be stored or processed at the facility;

(5) require a recycling facility to establish fire lanes between piles of combustible materials;

(6) require buffer zones between a recycling facility and a residence, school, or church; and

(7) for a recycling facility that is located on a recharge or transition zone referenced in Subsection 361.1191(a)(2):

(A) imposing more stringent standards; and

(B) requiring groundwater protection features, such as liners and monitor wells.

(c) A rule adopted by the commission under this section does not become effective until the first anniversary of the date on which the rule was adopted.

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

### **HB 2701 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2701**, A bill to be entitled An Act relating to the regulation of horse and dog racing.

Representative Flores moved to concur in the senate amendments to **HB 2701**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1824):  
111 Yeas, 25 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Turner; Vaught; Veasey; Vo; West; Zedler; Zerwas.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Chisum; Christian; Darby; Delisi; Eissler; Elkins; Flynn; Geren; Hancock; Harless; Harper-Brown; Jackson; Macias; McReynolds; Patrick; Phillips; Talton; Truitt; Van Arsdale; Woolley.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — England; Hochberg; Lucio; Moreno; Morrison; Oliveira; Peña; Villarreal.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1824. I intended to vote yes.

Woolley

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

Amend **HB 2701** (senate committee printing) as follows:

(1) Strike Section 3 of the bill (page 1, lines 28-37).

(2) Insert the following appropriately numbered SECTION to the bill and renumber existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 6.06, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by amending Subsection (h) and adding Subsections (j) and (k) to read as follows:

(h) A person may not own more than a five percent interest in more than three ~~two~~ racetracks licensed under this Act.

(j) Notwithstanding any other law, a person who owns an interest in two or more racetracks licensed under this Act and who also owns an interest in a license issued under Subtitle B, Title 3, Alcoholic Beverage Code, may own an interest

in the premises of another holder of a license or permit under Title 3, Alcoholic Beverage Code, if the premises of that other license or permit holder are part of the premises of a racetrack licensed under this Act.

(k) The commission shall review the ownership and management of a license issued under this article every five years beginning on the fifth anniversary of the issuance of the license. In performing the review, the commission may require the license holder to provide any information that would be required to be provided in connection with an original license application under Article 5 of this Act or this article. The commission shall charge fees for the review in amounts sufficient to implement this subsection.

### **HB 2982 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2982**, A bill to be entitled An Act relating to the ad valorem tax appraisal of oil or gas interests.

Representative Hardcastle moved to concur in the senate amendments to **HB 2982**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1825):  
141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Oliveira; Turner; Villarreal.

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

Amend **HB 2982** (House Committee Printing) by adding the following appropriately numbered Sections and renumbering the remaining Sections of the bill:

SECTION \_\_\_\_\_. Section 162.227, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid tax on diesel fuel;

(2) the diesel fuel is used in this state by movable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by movable specialized equipment used in oil field well servicing.

SECTION \_\_\_\_\_. This Act takes effect September 1, 2007.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 2982** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Sections 201.059(g) and 202.058(h), Tax Code, are repealed.

### **Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 2982** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 21.02(e), Tax Code, is amended to read as follows:

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by each ~~the~~ taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by each ~~the~~ taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig under Chapter 22 to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable drilling rig to the appraisal district in which the rig is located on January 1 when the rig otherwise would be taxable at the owner's principal place of business in this state, all the owner's portable drilling rigs are taxable by the taxing units in

which each rig is located on January 1. Notwithstanding any other provision of this subsection, if the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

(b) Subsection (a) of this section applies only to a tax year that begins on or after the effective date of this section.

### **HB 3271 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3271**, A bill to be entitled An Act relating to the biennial hearing concerning title insurance and related information.

Representative Eiland moved to concur in the senate amendments to **HB 3271**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1826):  
141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Oliveira; Villarreal; Vo.

#### **Senate Committee Substitute**

**CSHB 3271**, A bill to be entitled An Act relating to the biennial hearing concerning title insurance and related information.

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

SECTION 1. Sections 2703.153 and 2703.203, Insurance Code, are amended to read as follows:

Sec. 2703.153. COLLECTION OF DATA FOR FIXING PREMIUM RATES; ANNUAL STATISTICAL REPORT. (a) Each title insurance company and title insurance agent engaged in the business of title insurance in this state shall annually submit to the department, as required by the department to collect data to use to fix premium rates, a statistical report containing [all] information relating to:

- (1) loss experience;
- (2) expense of operation; and
- (3) other material matters.

(b) The information must be submitted in the form prescribed by the department.

(c) If the form adopted under Subsection (b) is amended to require a title insurance company or title insurance agent to include new or different information in the statistical report, that information may not be considered by the commissioner in fixing premium rates until the expiration of a period stated in the commissioner's rules. The period must be sufficiently long to ensure that the information collected is statistically meaningful.

(d) A title insurance company or a title insurance agent aggrieved by a requirement concerning the submission of information imposed under this section or otherwise imposed in connection with a biennial hearing under Subchapter E may bring a suit in a district court in Travis County alleging that the request for information:

- (1) is abusive;
- (2) is unduly burdensome;
- (3) is made for the purposes of harassment;
- (4) is otherwise improper or improperly requests privileged

information; or

(5) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the biennial hearing and is not a request reasonably designed to lead to the discovery of that information.

(e) On filing of a suit under Subsection (d), the requirement that the title insurance company or title insurance agent bringing the suit comply with the request for the information is abated as to that title insurance company or title insurance agent. The district court may enter an order requiring the title insurance company or title insurance agent to comply with the request for information subject to the limitations, if any, imposed by the court.

(f) Another title insurance company or title insurance agent subject to the requirements described by Subsection (d) may intervene, as permitted by the court, in a suit brought under that subsection.

(g) A district court shall act on a suit brought under Subsection (d) not later than the 60th day after the date the suit is filed.

Sec. 2703.203. BIENNIAL HEARING. The commissioner shall hold a biennial public hearing not earlier than July 1 of each even-numbered year to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an association, title insurance company, title insurance agent, or member of the public admitted as a party under Section 2703.204 requests to be considered or that the commissioner determines necessary to consider.

SECTION 2. Section 2703.204, Insurance Code, is amended to read as follows:

Sec. 2703.204. ADMISSION AS PARTY TO BIENNIAL HEARING. (a) Subject to this section, an [An] individual or association or other entity recommending adoption of a premium rate or another matter relating to regulating the business of title insurance shall be admitted as a party to the biennial hearing.

(b) An individual or association seeking to be made a party with respect to a portion of the biennial hearing that relates to adoption of a premium rate or a rule must provide to the commissioner a detailed summary of the individual's or association's interest in the business of title insurance.

(c) For an individual, the summary required by Subsection (b) must include a statement of the number of real estate transactions in which the individual has been involved and with respect to which the individual has requested and paid for title insurance. For an association, the summary must include a statement of the number of members of the association.

(d) An association is presumed to have a substantial interest in the business of title insurance if the association has at least 250 members.

(e) A party to the biennial hearing may file an action in a district court in Travis County to remove any other party to a portion of the biennial hearing that relates to adoption of a premium rate or a rule on the grounds that the other party does not have a substantial interest in the business of title insurance.

SECTION 3. Section 2703.205(d), Insurance Code, is amended to read as follows:

(d) At the direction of the commissioner or at the written request of an association or other entity recommending adoption of a premium rate and [a person] seeking admission as a party to the ratemaking phase of the hearing, the State Office of Administrative Hearings shall conduct the ratemaking phase of the hearing in accordance with Chapter 40. A request under this subsection must be made at the time the association or entity [a person] seeks to be admitted as a party to the hearing but may not be made later than the 10th day after the date notice of the hearing is provided under Section 2703.207.

SECTION 4. This Act applies only to the premium rate applicable to a title insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2009. A premium rate applicable to a policy that is delivered, issued for delivery, or renewed before January 1, 2009, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for this purpose.

SECTION 5. This Act takes effect September 1, 2007.

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

Amend **CSHB 3271** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 2703.153, Insurance Code, strike added Subsections (c) and (d) of that section (page 1, lines 26-46) and substitute the following:

(c) If the department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

(d) A title insurance company or a title insurance agent aggrieved by a department requirement concerning the submission of information may bring a suit in a district court in Travis County alleging that the request for information:

(1) is unduly burdensome; or

(2) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the biennial hearing and is not a request reasonably designed to lead to the discovery of that information.

(2) In SECTION 1 of the bill, in amended Section 2703.153, Insurance Code, strike added Subsections (f) and (g) of that section (page 1, lines 55-61) and substitute the following:

(f) A title insurance company or title insurance agent must bring suit under Subsection (d) not later than the 30th day after the date the company or agent receives the request for information from the department.

(g) This section may not be construed to limit the department's authority to request information under Section 38.001 or other applicable provisions of this code.

(3) In SECTION 2 of the bill, in amended Section 2703.204, Insurance Code, strike added Subsections (b), (c), (d), and (e) of that section (page 2, lines 14-32) and substitute the following:

(b) A party to the ratemaking phase of the biennial hearing may request that the commissioner remove any other party to the ratemaking phase of the hearing on the grounds that the other party does not have a substantial interest in title insurance. A decision of the commission to deny or grant the request is final and subject to appeal in accordance with Section 36.202.

**HB 3443 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative D. Howard called up with senate amendments for consideration at this time,

**HB 3443**, A bill to be entitled An Act relating to the Texas hospital-based nursing education partnership grant program.

Representative D. Howard moved to concur in the senate amendments to **HB 3443**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1827):  
140 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Madden; Moreno; Oliveira; Zedler.

### Senate Committee Substitute

**CSHB 3443**, A bill to be entitled An Act relating to the Texas hospital-based nursing education partnership grant program.

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

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter EE to read as follows:

SUBCHAPTER EE. TEXAS HOSPITAL-BASED NURSING EDUCATION  
PARTNERSHIP GRANT PROGRAM

Sec. 61.9751. DEFINITIONS. In this subchapter:

(1) "Hospital-based nursing education partnership" means a partnership that:

(A) consists of one or more hospitals in this state that are not owned, maintained, or operated by the federal or state government or an agency of the federal or state government and one or more nursing education programs in this state; and

(B) serves to increase graduation rates for each nursing education program in the partnership.

(2) "Nursing education program" means an undergraduate professional nursing program or a graduate professional nursing program as those terms are defined by Section 54.221.

Sec. 61.9752. PROGRAM: ESTABLISHMENT; ADMINISTRATION; PURPOSE. (a) The Texas hospital-based nursing education partnership grant program is established.

(b) The board shall administer the program in accordance with this subchapter and rules adopted under this subchapter.

(c) Under the program, the board shall make grants to hospital-based nursing education partnerships to assist those partnerships to meet the state's needs for registered nurses by increasing the number of nursing education program graduates through innovative instruction through collaboration between hospitals and nursing education programs and the use of the existing expertise and facilities of those hospitals and programs.

Sec. 61.9753. GRANTS: CONDITIONS; LIMITATIONS. (a) The board may make a grant under this subchapter to a hospital-based nursing education partnership only if the board determines that:

(1) the partnership will meet applicable board and Board of Nurse Examiners standards for instruction and student competency for the associate, bachelor of science, or master of science nursing degree granted by each nursing education program participating in the partnership;

(2) each nursing education program participating in the partnership will, as a result of the partnership, enroll in the nursing education program a sufficient number of additional students as established by the board;

(3) the marginal cost to the state of producing a graduate of a nursing education program participating in the partnership will be comparable, as determined under criteria established by board rule, to the marginal cost to the state of producing a graduate of a nursing education program not participating in a partnership;

(4) each hospital participating in a partnership with a nursing education program will provide to students enrolled in the program clinical placements that:

(A) allow the students to take part in providing or to observe, as appropriate, medical services offered by the hospital; and

(B) meet the clinical education needs of the students; and

(5) the partnership will satisfy any other requirement established by board rule.

(b) In establishing the cost-comparison criteria under Subsection (a)(3), the board shall exclude reasonable development and initial implementation costs for the infrastructure necessary to support a hospital-based nursing education partnership.

(c) A grant under this subchapter may be spent only on costs related to the development or operation of a hospital-based nursing education partnership that:

(1) prepares a student to earn an associate or bachelor of science degree in nursing and to achieve initial licensure as a registered nurse, including by providing an accelerated program to prepare a student to earn a bachelor of science degree in nursing;

(2) prepares a student to earn a master of science degree in nursing with a concentration in education; or

(3) provides an articulation program providing for advancement from an associate degree to a bachelor of science degree in nursing or to a master of science degree in nursing with a concentration in education.

(d) A hospital-based nursing education partnership shall return to the board money granted to the partnership under this subchapter that the partnership does not spend on eligible costs under Subsection (c). As the board determines appropriate to best achieve the purposes of these programs, the board may:

(1) use the money to make grants to other hospital-based nursing education partnerships;

(2) use the money to make grants under the professional nursing shortage reduction program established under Subchapter Z; or

(3) transfer the money to the permanent fund for higher education nursing, allied health, and other health-related programs established under Subchapter C, Chapter 63, for use in making grants under that subchapter.

Sec. 61.9754. PRIORITY FOR FUNDING. In awarding a grant under this subchapter, the board shall give priority to a hospital-based nursing education partnership that submits a proposal that:

(1) provides for collaborative educational models between one or more participating hospitals and one or more participating nursing education programs that have signed a memorandum of understanding or other written agreement under which the participants agree to comply with standards established by the board, including any standards the board may establish that:

(A) provide for program management that offers a centralized decision-making process allowing for inclusion of each entity participating in the partnership;

(B) provide for access to clinical training positions for students in nursing education programs that are not participating in the partnership; and

(C) specify the details of any requirement relating to a student in a nursing education program participating in the partnership being employed after graduation in a hospital participating in the partnership, including any details relating to the employment of students who do not complete the program, are not offered a nursing position at the hospital, or choose to pursue other employment;

(2) includes a demonstrable education model to:

(A) increase the number of students enrolled in, the number of students graduating from, and the number of nursing faculty employed by each nursing education program participating in the partnership; and

(B) improve student retention in each nursing education program;

(3) indicates the availability of money to match all or a portion of the grant money, including matching money from a hospital, private or nonprofit entity, or institution of higher education;

(4) can be replicated by other hospital-based nursing education partnerships or nursing education programs; and

(5) includes plans for sustainability of the partnership beyond the end of the grant period.

Sec. 61.9755. GRANTS, GIFTS, AND DONATIONS. In addition to money appropriated by the legislature, the board may solicit, receive, and spend grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 61.9756. RULES. The board shall adopt rules for the administration of the Texas hospital-based nursing education partnership grant program. The rules must include:

(1) provisions relating to applying for a grant under this subchapter;  
and

(2) standards of accountability to be met by any hospital-based nursing education partnership awarded a grant under this subchapter.

Sec. 61.9757. APPROVAL AS NURSING EDUCATION PILOT PROGRAM. The board and the Board of Nurse Examiners shall establish a single application process under which a hospital-based nursing education partnership may apply both for approval as a pilot program under Section 301.1605, Occupations Code, and for a grant under this subchapter.

Sec. 61.9758. ANNUAL REPORT. Each hospital-based nursing education partnership that receives a grant under this subchapter shall submit to the board an annual report that includes information required by board rule, including information concerning the extent to which during the reporting period the partnership has complied with accountability standards established by the board.

SECTION 2. As soon as practicable after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules for the implementation and administration of the Texas hospital-based nursing education partnership grant program established under Subchapter EE, Chapter 61, Education Code, as added by this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 3443** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, between "increase" and "graduation," (page 1, line 24) insert "the number of students enrolled in and".

(2) In SECTION 1 of the bill between "program," (page 1, line 35) and "the," insert "to the extent funds are available under Section 61.9755,".

(3) In SECTION 1 of the bill by adding the following new subsection (4) to Section 61.9754, and renumbering subsequent subsections accordingly:

(4) provides for completion of a class admitted under this project to be funded by all members of the partnership if the funded project ends before the class graduation date;

(4) In SECTION 1 of the bill, strike "end of the" (page 3, line 7).

(5) In SECTION 1 of the bill, substitute Sec. 61.9758 (page 3, lines 26-32) with a new Sec. 61.9758 to read as follows:

Sec. 61.9758. REPORTING REQUIREMENTS. (a) Each hospital-based nursing education partnership that receives a grant under this subchapter shall submit to the board narrative and financial reports that include information concerning the extent to which during the reporting period the partnership has complied with accountability standards established by the board.

(b) Not later than December 31 of each even-numbered year, the board shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives. The report shall include a list and description of partnerships created under this subchapter, and the number of new nursing student enrollees.

(6) In SECTION 1 of the bill, following Sec. 61.9758, add the following:

Sec. 61.9759. ADMINISTRATIVE COSTS. A reasonable amount, not to exceed three percent, of any money appropriated for purposes of this subchapter may be used to pay the costs of administering this subchapter.

(7) In SECTION 2 of the bill, insert "The board may adopt the initial rules in the manner provided by law for emergency rules." after "Act." (page 3, line 38).

### **HB 160 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 160**, A bill to be entitled An Act relating to a study on the relocation of freight trains away from certain residential areas of the state.

Representative Straus moved to concur in the senate amendments to **HB 160**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1828): 140 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Allen; Moreno; Oliveira; Puente.

### Senate Committee Substitute

**CSHB 160**, A bill to be entitled An Act relating to rail relocation and improvement in the state.

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

SECTION 1. (a) The Texas Department of Transportation shall conduct a study to determine the economic feasibility of relocating freight trains that carry hazardous materials away from residential areas of the state in municipalities with a population of more than 1.2 million. The study must include an evaluation of cost options for the relocation of freight trains from residential areas.

(b) Not later than March 1, 2008, the Texas Department of Transportation shall report the results of the study conducted under Subsection (a) of this section to the governor and the legislature.

SECTION 2. Section 386.109, Health and Safety Code, is amended to read as follows:

Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. The commission may consider for funding under Section 386.108:

(1) the purchase and installation at a site of equipment that is designed primarily to dispense qualifying fuel, other than standard gasoline or diesel, or the purchase of on-site mobile fueling equipment;

(2) infrastructure projects, including auxiliary power units, designed to dispense electricity to motor vehicles and on-road and non-road diesels; ~~and~~

(3) a project that involves a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine; and

(4) a project to reduce air pollution and engine idling by relieving congestion through rail relocation or improvement at a rail intersection that:

(A) is located in a nonattainment area at an intersection of two interstate highways;

(B) is an intersection of two mainline tracks; and

(C) handles more than 100 daily train movements, including passenger, freight, and military cars and hazardous waste shipments.

SECTION 3. Section 386.252(a), Health and Safety Code, as amended by Section 3, Chapter 766, Section 3, Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) The first \$25 million in the fund on September 1 of each year shall be transferred to the Texas rail relocation and improvement fund. Money remaining in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to that nonprofit organization based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

SECTION 4. Effective September 1, 2008, Section 386.252(a), Health and Safety Code, as amended by Section 3, Chapter 766, Section 3, Chapter 1095, and Section 12, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) The first \$25 million in the fund on September 1 of each year shall be transferred to the Texas rail relocation and improvement fund. Money remaining in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 64 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 33 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 10 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and

annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, not less than 25.5 percent is to be allocated each year to that nonprofit organization based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification, not more than \$12,500,000 is to be allocated each year from any excess funds to be administered by the commission to fund a study of regional ozone formation in this state, meteorological and chemical modeling, and issues related to ozone formation by ozone precursors and fine particulate matter formation in this state, and the balance is to be allocated each year to the commission to fund promising new technologies as identified through the new technology research and development program and recommended by that nonprofit organization based in Houston in order to permit obtaining the maximum credits for emissions reductions under the state's air quality state implementation plans; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 160** as follows:

(1) In SECTION 2 of the bill, added Subdivision (4), Section 386.109, Health and Safety Code (on page 1), strike lines 40 through 47 and substitute "improvement at a rail intersection that is located in a nonattainment or near nonattainment area".

(2) Strike SECTIONS 3 and 4 of the bill (page 1, line 48 through page 3, line 5) and renumber subsequent SECTIONS accordingly.

### **HB 3430 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3430**, A bill to be entitled An Act relating to the online availability of information about state expenditures, including the creation of a state database containing information on state expenditures and to certain comptroller reports.

Representative Strama moved to concur in the senate amendments to **HB 3430**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1829): 142 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 3430**, A bill to be entitled An Act relating to the online availability of information about state expenditures, including the creation of a state database containing information on state expenditures, and to certain comptroller reports.

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

SECTION 1. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.024 to read as follows:

Sec. 403.024. SEARCHABLE STATE EXPENDITURE DATABASE. (a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) The comptroller shall establish and post on the Internet a database of state expenditures, including contracts and grants, that is electronically searchable by the public except as provided by Subsection (d). The database must include:

(1) the amount, date, payor, and payee of expenditures; and

(2) a listing of state expenditures by:

(A) object of expense with links to the warrant or check register level; and

(B) to the extent maintained by state agency accounting systems in a reportable format, class and item levels.

(c) To the extent possible, the comptroller shall present information in the database established under this section in a manner that is searchable and intuitive to users. The comptroller shall enhance and organize the presentation of the

information through the use of graphical representations, such as pie charts, as the comptroller considers appropriate. At a minimum, the database must allow users to:

(1) search and aggregate state funding by any element of the information;

(2) ascertain through a single search the total amount of state funding awarded to a person by a state agency; and

(3) download information yielded by a search of the database.

(d) The comptroller may not allow public access under this section to a payee's address, except that the comptroller may allow public access under this section to information identifying the county in which the payee is located. The comptroller may not allow public access under this section to information that is identified by a state agency as excepted from required disclosure under Chapter 552 or as confidential. It is an exception to the application of Section 552.352(a) that the comptroller or an officer or employee of the comptroller's office posted information under this section in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures. The comptroller or an officer or employee of the comptroller's office is immune from any civil liability for posting confidential information under this section if the comptroller, officer, or employee posted the information in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures.

(e) To the extent any information required to be in the database is already being collected or maintained by a state agency, the state agency shall provide that information to the comptroller for inclusion in the database.

(f) The comptroller may not charge a fee to the public to access the database.

(g) Except as provided by Subsection (h), a state agency is required to cooperate with and provide information to the comptroller as necessary to implement and administer this section.

(h) This section does not require a state agency to record information or expend resources for the purpose of computer programming or other additional actions necessary to make information reportable under this section.

(i) The Department of Information Resources, after consultation with the comptroller, shall prominently include a link to the database established under this section on the public home page of the TexasOnline Project described by Section 2054.252.

(j) The comptroller may establish procedures and adopt rules to implement this section.

SECTION 2. Section 2054.126, Government Code, is amended by adding Subsection (f) to read as follows:

(f) Each state agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained shall include a link on the agency's Internet site to the state expenditure database established under Section 403.024. In this subsection, "state agency" has the meaning assigned by Section 403.013.

SECTION 3. Subchapter A, Chapter 313, Tax Code, is amended by adding Section 313.008 to read as follows:

Sec. 313.008. REPORT ON COMPLIANCE WITH AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report assessing the progress of each agreement entered into under this chapter. The report must be based on data certified to the comptroller by each recipient of a limitation on appraised value under this chapter and state for each agreement:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the new jobs each recipient created;

(4) the amount of the qualified investment each recipient committed to expend or allocate per project;

(5) the amount of the qualified investment each recipient expended or allocated per project;

(6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the taxes that would have been imposed on the market value of the qualified property if the property had not received a limitation on appraised value;

(9) the dollar amount of the taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and

(11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

(b) The report may not include information that is made confidential by law.

(c) The comptroller may require a recipient to submit, on a form the comptroller provides, information required to complete the report.

SECTION 4. Sections 403.024 and 2054.126(f), Government Code, as added by this Act, apply only to expenditures made on or after the effective date of this Act.

SECTION 5. Not later than October 1, 2007, the comptroller shall establish the database as required by Section 403.024, Government Code, as added by this Act.

SECTION 6. This Act takes effect October 1, 2007.

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

Amend **HB 3430** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 2177.052, Government Code, is transferred to Chapter 322, Government Code, redesignated as Section 322.020, and amended to read as follows:

Sec. 322.020 [~~2177.052~~]. MAJOR CONTRACTS DATABASE. (a) In this section, "major contract" means:

(1) a contract for which notice is required under one of the following sections [that has a value that is expected to be at least \$5 million computed as the]:

(A) Section 2054.008 [~~(4) initial value of the contract~~];

(B) Section 2166.2551;

(C) Section 2254.006; or

(D) Section 2254.0301; or

(2) a contract, including an amendment, modification, renewal, or extension:

(A) for which notice is not required under a section listed in Subdivision (1);

(B) that is not a purchase order, an interagency contract, or a contract paid only with funds not appropriated by the General Appropriations Act; and

(C) with a value that exceeds \$50,000 [~~total value of the contract after all potential term extensions~~].

(b) Each state agency shall provide the Legislative Budget Board [~~commission~~] copies of the following documents:

(1) each major contract entered into by the agency; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(c) The Legislative Budget Board [~~commission~~] shall post on the Internet [~~include in the information posted on the electronic procurement marketplace~~]:

(1) each major contract of a state agency [~~including the commission~~]; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(d) [~~The commission shall allow Texas governmental entities, including legislative entities, access to the information posted under this section.~~]

(~~e~~) The Legislative Budget Board [~~commission~~] shall allow public access to the information posted under this section, except for information that is not subject to disclosure under Chapter 552. Information that is not subject to disclosure under Chapter 552 must be referenced in an appendix that generally describes the information without disclosing the specific content of the information.

(e) [~~f~~] The Legislative Budget Board [~~commission~~] shall make the information searchable by contract value, state agency, and vendor. The Legislative Budget Board [~~commission~~] may make the information searchable by other subjects as appropriate.

(f) In this section, "state agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education, the Health and Human Services Commission, an agency identified in Section 531.001(4), or the Texas Department of Transportation.

SECTION \_\_\_\_\_. With respect to Section 322.020(c), Government Code, as amended by this Act, the change in law made by this Act applies only in relation to a major contract:

(1) entered into on or after the effective date of this Act, for purposes of complying with Section 322.020(c)(1), Government Code; and

(2) for which a request for proposal, invitation to bid, or comparable solicitation is made on or after the effective date of this Act, for purposes of complying with Section 322.020(c)(2), Government Code.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 3430** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.953 to read as follows:

Sec. 51.953. CERTAIN REVENUE RECEIVED FROM STUDENT HEALTH CENTER SERVICES. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual or group health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) Amounts received by an institution of higher education from a health benefit plan issuer as a result of a claim filed with the issuer by or on behalf of the institution's student health center are institutional funds under Section 51.009 and may be used only for the construction, improvement, operation, or maintenance of the student health center or to increase or enhance the services offered by the student health center. It is the intent of the legislature that those amounts be in addition to other amounts of money allocated to the student health center and those other amounts not be reduced.

**Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 3430** (Committee Printing) by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Subdivisions (2) and (3), Section 2006.001, Government Code, are amended to read as follows:

(2) "Small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has fewer than 100 employees or less than \$6 [~~\$4~~] million in annual gross receipts.

(3) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state and includes an officer who is authorized by law to determine contested cases.

SECTION \_\_\_\_\_. Section 2006.002, Government Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1) and (g) to read as follows:

(c) Before adopting a rule that may ~~would~~ have an adverse economic effect on small businesses, a state agency shall prepare:

(1) an economic impact statement that estimates the number of small businesses subject to the proposed rule, projects the economic impact of the rule on small businesses, and describes alternative methods of achieving the purpose of the proposed rule; and

(2) a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule.

(c-1) The analysis under Subsection (c) shall consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses. The state agency must include in the analysis several proposed methods of reducing the adverse impact of a proposed rule on a small business [a statement of the effect of the rule on small businesses. The statement must include:

~~[(1) an analysis of the cost of compliance with the rule for small businesses; and~~

~~[(2) a comparison of the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the rule, using at least one of the following standards:~~

~~[(A) cost for each employee;~~

~~[(B) cost for each hour of labor; or~~

~~[(C) cost for each \$100 of sales].~~

(d) The agency shall include the economic impact statement and regulatory flexibility analysis [statement of effect] as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and shall provide copies to the standing committee of each house of the legislature that is charged with reviewing the proposed rule.

(g) The attorney general, in consultation with the comptroller, shall prepare guidelines to assist a state agency:

(1) in determining a proposed rule's potential adverse economic effects on small businesses; and

(2) in identifying and evaluating alternative methods of achieving the purpose of a proposed rule.

SECTION \_\_\_\_\_. Section 2006.002, Government Code, as amended by this Act, applies only to a rule that is adopted on or after January 1, 2008. A rule adopted before that date is governed by the law in effect when the rule was adopted, and the former law is continued in effect for that purpose.

**HB 426 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 426**, A bill to be entitled An Act relating to applicability of provisions of the Education Code to and standards for the operation of school district disciplinary alternative education programs.

Representative Madden moved to concur in the senate amendments to **HB 426**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1830): 140 Yeas, 1 Nays, 2 Present, not voting.

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

Nays — Harper-Brown.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Oliveira; Patrick.

**Senate Committee Substitute**

**CSHB 426**, A bill to be entitled An Act relating to standards for the operation of school district disciplinary alternative education programs.

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

SECTION 1. Section 37.008, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) Each school district shall provide a disciplinary alternative education program that:

- (1) is provided in a setting other than a student's regular classroom;
- (2) is located on or off of a regular school campus;
- (3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;
- (4) focuses on English language arts, mathematics, science, history, and self-discipline;
- (5) provides for students' educational and behavioral needs;
- (6) provides supervision and counseling;
- (7) employs only teachers who ~~[requires that to teach in an off-campus disciplinary alternative education program, each teacher]~~ meet all certification requirements established under Subchapter B, Chapter 21; and

(8) ~~provides not less than the minimum amount of instructional time per day required by Section 25.082(a) [notwithstanding Subdivision (7), requires that to teach in a disciplinary alternative education program of any kind, each teacher employed by a school district during the 2003-2004 school year or an earlier school year meet, not later than the beginning of the 2005-2006 school year, all certification requirements established under Subchapter B, Chapter 21].~~

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

- (1) student/teacher ratios;
- (2) student health and safety;
- (3) reporting of abuse, neglect, or exploitation of students;
- (4) training for teachers in behavior management and safety procedures; and
- (5) planning for a student's transition from a disciplinary alternative education program to a regular campus.

(a-2) Not later than December 15, 2008, the agency shall deliver a report to the legislature that provides the estimated costs to the agency of enforcing the standards adopted under Subsection (a-1), including the estimated cost of:

- (1) on-site monitoring to enforce the standards; and
- (2) alternative methods of monitoring compliance with the standards.

(a-3) Subsection (a-2) and this subsection expire January 15, 2009.

SECTION 2. (a) Section 37.008(a), Education Code, as amended by this Act, applies beginning with the 2007-2008 school year.

(b) Standards for the operation of school district disciplinary alternative education programs adopted under Section 37.008(a-1), Education Code, as added by this Act, apply beginning with the 2007-2008 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

## **HB 2402 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2402**, A bill to be entitled An Act relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

Representative Truitt moved to concur in the senate amendments to **HB 2402**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1831): 134 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Berman; Crabb; Eissler; Elkins; Flores; Gallego; Haggerty; Hochberg; Moreno; Oliveira; Riddle.

### **Senate Committee Substitute**

**CSHB 2402**, A bill to be entitled An Act relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

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

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.012 to read as follows:

Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO CERTAIN PROPERTY OWNERS' ASSOCIATIONS. (a) A property owners' association may not amend a dedicatory instrument to grant the property owners' association an easement through or over an owner's lot without the consent of the owner.

(b) This section does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that allows the property owners' association to access an owner's lot to remedy a violation of the dedicatory instrument.

SECTION 2. (a) Chapter 209, Property Code, is amended by adding Section 209.013 to read as follows:

Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY INSTRUMENT. (a) A dedicatory instrument created by a developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that the developer otherwise controls under the terms of the dedicatory instrument may not prohibit the amendment of any provision of the dedicatory instrument by the property owners' association after the developer no longer controls the association or the board of directors.

(b) A provision in a dedicatory instrument that violates this section is void and unenforceable.

(b) Except as specifically provided by a dedicatory instrument in a provision that existed before the effective date of this Act, the change in law made by this section applies to a dedicatory instrument created on or after the effective date of this Act.

SECTION 3. Section 209.012, Property Code, as added by this Act, applies only to an easement granted by a dedicatory instrument on or after the effective date of this Act. An easement granted by a dedicatory instrument before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

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

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

Amend **CSHB 2402** as follows:

(1) In Section 2(a) of the bill, in proposed Subsection (a), Section 209.013, Property Code (committee printing page 1, lines 32 through 35), strike "prohibit the amendment of any provision of the dedicatory instrument by property owners' association after the developer no longer controls the association or the board of directors" and substitute "be amended during the period between the time the developer loses the majority of the voting rights or other form of control of the property owners' association and the time a new board of directors of the association assumes office following the loss of the majority of the voting rights or other form of control".

(2) In Section 2(b) of the bill (committee printing page 1 line 41), strike "created on or after" and substitute "created before, or, or after".

### **HB 2702 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2702**, A bill to be entitled An Act relating to the exemption from tuition and fees at a public institution of higher education for adopted students.

Representative Truitt moved to concur in the senate amendments to **HB 2702**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1832): 139 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Flores; Gallego; Hochberg; Moreno; Oliveira.

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

Amend **HB 2702** (Senate Committee Printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 162.304, Family Code, is amended by adding Subsections (b-1), (b-2), and (g) to read as follows:

(b-1) The department shall pay a \$150 subsidy each month for the premiums for health benefits coverage for a child with respect to whom a court has entered a final order of adoption if the child:

(1) was in the conservatorship of the department at the time of the child's adoptive placement;

(2) after the adoption, is not eligible for medical assistance under Chapter 32, Human Resources Code; and

(3) is younger than 18 years of age.

(b-2) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Subsection (b-1), including rules that:

(1) limit eligibility for the subsidy under that subsection to a child whose adoptive family income is less than 300 percent of the federal poverty level;

(2) provide for the manner in which the department shall pay the subsidy under that subsection; and

(3) specify any documentation required to be provided by an adoptive parent as proof that the subsidy is used to obtain and maintain health benefits coverage for the adopted child.

(g) A child for whom a subsidy is provided under Subsection (b-1) for premiums for health benefits coverage and who does not receive any other subsidy under this section is not considered to be the subject of an adoption assistance agreement for any other purpose, including for determining eligibility for the exemption from payment of tuition and fees for higher education under Section 54.2111, Education Code.

(b) The change in law made by this section to Section 162.304, Family Code, applies only to financial and medical assistance available under Section 162.304, Family Code, as amended by this section, for a child for whom a final order of adoption is entered on or after the effective date of this section. Financial and medical assistance for a child for whom a final order of adoption is entered before the effective date of this section is governed by the law in effect on the date the order was entered, and the former law is continued in effect for that purpose.

(c) This section takes effect September 1, 2007.

(2) In SECTION 3 of the bill (page 1, line 47), strike "This Act" and substitute "Except as otherwise provided by this Act, this Act".

### **HB 1742 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1742**, A bill to be entitled An Act relating to urban land bank demonstration programs.

Representative Giddings moved to concur in the senate amendments to **HB 1742**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1833): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias;

Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Harper-Brown; Moreno; Oliveira.

### Senate Committee Substitute

**CSHB 1742**, A bill to be entitled An Act relating to urban land bank demonstration programs.

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

SECTION 1. Section 361.1875, Health and Safety Code, is amended to read as follows:

Sec. 361.1875. EXCLUSION OF CERTAIN POTENTIALLY RESPONSIBLE PARTIES. (a) The commission may not name a person as a responsible party for an enforcement action or require a person to reimburse remediation costs for a site if the commission has conducted an investigation of a site owned or operated by the person and as a result of the investigation has determined that:

(1) the contaminants that are the subject of investigation under this subchapter appear to originate from an up-gradient, off-site source that is not owned or operated by the person;

(2) additional corrective action is not required at the site owned or operated by the person; and

(3) the commission will not undertake a formal enforcement action in the matter.

(b) The commission may not name a land bank established under Chapter 379C, Local Government Code, as a responsible party for an enforcement action or require the land bank to reimburse remediation costs for a site if the commission has conducted an investigation of a site owned or operated by the land bank and as a result of the investigation has determined that:

(1) the contaminants that are the subject of investigation under this subchapter:

(A) appear to originate from an up-gradient, off-site source that is not owned or operated by the land bank; or

(B) appear to have been present on the site before the land bank purchased the site; and

(2) the land bank could not have reasonably known about the contaminants at the time the land bank purchased the site.

SECTION 2. Section 361.271(b), Health and Safety Code, is amended to read as follows:

(b) A political subdivision, a land bank established under Chapter 379C, Local Government Code, or an officer or employee of the political subdivision or land bank is not a person responsible for solid waste released or threatened to be released from a facility or at a site if:

(1) the political subdivision or land bank acquired ownership or control of the facility or site through a [bankruptcy,] tax delinquency[, abandonment,] or if the subdivision acquired ownership or control of the facility or site through bankruptcy, abandonment, or other circumstances in which the subdivision involuntarily acquired title to the facility or site by virtue of the subdivision's function as sovereign; and

(2) the political subdivision, land bank, officer, or employee did not cause or contribute to the release or threatened release of solid waste at the facility or site.

SECTION 3. Section 379C.003(3), Local Government Code, is amended to read as follows:

(3) "Low income household" means a household with a gross income of not greater than 115 [80] percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

SECTION 4. Section 379C.008(a), Local Government Code, is amended to read as follows:

(a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings;

(3) there are delinquent taxes on the property for a total of at least five [each of the preceding six] years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

SECTION 5. Section 379C.010(b), Local Government Code, is amended to read as follows:

(b) Each land bank property sold during any given fiscal year to be developed for sale must be deed restricted for sale to low income households, and:

(1) at ~~At~~ least 25 percent of those ~~the~~ land bank properties must ~~sold during any given fiscal year to be developed for sale shall~~ be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size; and

(2) not more than 30 percent of those land bank properties may be deed restricted for sale to households with gross household incomes greater than 80 percent of the area median family income, adjusted for household size ~~for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development~~.

SECTION 6. Section 379C.011(d), Local Government Code, is amended to read as follows:

(d) The municipality shall specify in its plan that the period during which the right of first refusal provided by this section may be exercised by a qualified organization is six ~~That period must be at least nine months but not more than 26~~ months from the date of the deed of conveyance of the property to the land bank.

SECTION 7. Section 11.18, Tax Code, is amended by amending Subsection (d) and adding Subsection (o) to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the pardons and paroles division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; ~~or~~

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing; or

(21) acquiring, holding, and transferring unimproved real property under an urban land bank demonstration program established under Chapter 379C, Local Government Code, as or on behalf of a land bank.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) is considered to be used exclusively by the qualified charitable organization to perform that function.

SECTION 8. (a) Section 361.1875, Health and Safety Code, as amended by this Act, applies only to a site investigation conducted by the Texas Commission on Environmental Quality that begins on or after the effective date of this Act. A site investigation that begins before the effective date of this Act is governed by the law in effect at the time the investigation began, and the former law is continued in effect for that purpose.

(b) Section 361.271(b), Health and Safety Code, as amended by this Act, applies only to an enforcement action initiated by the Texas Commission on Environmental Quality on or after the effective date of this Act. An enforcement action initiated before the effective date of this Act is governed by the law in effect at the time the action was initiated, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act to Chapter 379C, Local Government Code, apply only to an urban land bank demonstration program operating in conformance with an urban land bank demonstration plan adopted by the governing body of a municipality on or after the effective date of this Act. An urban land bank demonstration program operating in conformance with an urban land bank demonstration plan adopted before the effective date of this Act is governed by the law in effect at the time the plan was adopted until a subsequent plan is adopted, and the former law is continued in effect for that purpose.

(d) Section 11.18, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2007.

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

Amend **HB 1742** (Committee Printing) as follows:

Add the following SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_ § 373A.003 Local Government Code. APPLICABILITY OF CHAPTER. (a) This chapter applies ~~only~~ to a municipality with a population of more than 650,000 that is located in a uniform state service region with fewer than 550,000 occupied housing units as determined by the most recent United States decennial census.

(b) Subchapters A, B, C and D apply to any municipality with a population of 1.18 million or more which is located predominantly in a county that has a total area of less than 1,000 square miles and has adopted an urban land bank demonstration program under Chapter 379C, Local Government Code.

SECTION \_\_\_\_ § 373A.052. ELIGIBILITY FOR DESIGNATION. (a) To be designated as a district within a municipality described by § 373.003 (a) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 25,000 residents;
- (2) fewer than 8,000 households;
- (3) a number of owner-occupied households that does not exceed 50 percent of the total households in the area;
- (4) housing stock at least 55 percent of which was built at least 45 years ago;
- (5) an unemployment rate that is greater than 10 percent;
- (6) an overall poverty rate that is at least two times the poverty rate for the entire municipality; and
- (7) in each census tract within the area, a median family income that is less than 60 percent of the median family income for the entire municipality.

(b) To be designated as a district within a municipality described by § 373.003(b) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 75,000 residents
- (2) a median family income that is less than \$30,000 according to the last decennial census,
- (3) on overall poverty rate that is at least two times the poverty rate for the entire municipality.

(c) An area that is designated as a district under this subchapter may retain its designation as a district regardless of whether the area continues to meet the eligibility criteria provided by this section, except that an area that does not elect to retain its designation as permitted by this subsection must meet all eligibility criteria to be considered for subsequent redesignation as a district.

SECTION \_\_\_\_ It is the intent of the legislature that the passage by the 80th Legislature, Regular Session, 2007, of another bill that amends Chapter 373A, Local Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 373A, Local Government Code, and the amendments made to Chapter 373A, Local Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 1742** (Committee Printing) by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION \_\_\_\_ . Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379E to read as follows:

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

- (1) to which Chapter 379C or 379D does not apply; and
- (2) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

Sec. 379E.003. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(4) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(5) "Qualified participating developer" means a developer who meets the requirements of Section 379E.005 and includes a qualified organization under Section 379E.011.

(6) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379E.006.

(7) "Urban land bank program" or "program" means a program adopted under Section 379E.004.

Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379E.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the next year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of money anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice must be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Within the three-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that, if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 379E.008(a)(4) must provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379E.009(d).

Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

SECTION \_\_\_\_\_. Section 11.18, Tax Code, is amended by amending Subsection (d) and adding Subsection (o) to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the pardons and paroles division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; ~~[or]~~

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing; or

(21) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) is considered to be used exclusively by the qualified charitable organization to perform that function.

SECTION \_\_\_\_\_. Section 11.18, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

### **Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 1742** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION \_\_\_\_\_. Subsection (a), Section 379D.010, Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions with appropriate terms and conditions on property sold to qualified participating developers and eligible adjacent property owners that require:

(1) the development and sale or rental of the property to low income households, if the property is sold to a qualified participating developer; or

(2) the use of the property to be consistent and compatible with the residential character of the neighborhood and any applicable standards for use adopted by the land bank, if the property is sold to an eligible adjacent property owner.

SECTION \_\_\_\_\_. Section 379D.011, Local Government Code, is amended to read as follows:

Sec. 379D.011. RIGHT OF FIRST REFUSAL IN ELIGIBLE ADJACENT PROPERTY OWNERS; CONDITIONS OF PURCHASE. (a) Property acquired by the land bank shall be offered for sale, at fair market value as determined by the appraisal district in which the property is located, to eligible adjacent property owners under a right of first refusal on terms and conditions developed by the land bank that are consistent with this chapter.

(b) To be eligible to exercise a right of first refusal under this section, an owner of property adjacent to property acquired by the land bank:

(1) must have owned and continuously occupied that property for at least the five preceding years as that person's principal residence; and

(2) must meet any eligibility requirements adopted by the land bank.

(c) An adjacent property owner who purchases property under this section may not lease, sell, or otherwise transfer the property to another party before the 10th anniversary of the date the adjacent property owner purchases the property. This prohibition does not apply to a transfer of property, as allowed by policies adopted by the land bank:

(1) to a family member of the adjacent property owner; or

(2) in the case of the death of the adjacent property owner.

SECTION \_\_\_\_\_. Chapter 379D, Local Government Code, is amended by adding Section 379D.015 to read as follows:

Sec. 379D.015. EFFECT OF SALE TO LAND BANK OR SUBSEQUENT PURCHASERS OR LENDERS FOR VALUE; LIMITATION ON CERTAIN CAUSES OF ACTION. After the first anniversary of a sale of property to a land bank under this chapter:

(1) a third party, other than a qualified participating developer or eligible adjacent property owner who purchased the property from the land bank under this chapter or a person with a cause of action based on a right, title, interest, or other claim described by Subdivision (2)(A)(ii), may not bring a cause of action to set aside or otherwise challenge the sale of the property to the land bank, including a cause of action that is brought against:

(A) a qualified participating developer or eligible adjacent property owner who purchases property from the land bank under Section 379D.009 or 379D.011, as applicable; or

(B) any other subsequent purchaser for value or lender for value;

and

(2) a qualified participating developer or eligible adjacent property owner who purchases property from a land bank under this chapter or any other subsequent purchaser for value or, if applicable, a lender for a developer, owner, or purchaser described by this subdivision or any other subsequent lender for value:

(A) has, with the following characteristics, a full title to the property:

(i) except as provided by Subparagraph (ii), the title is not subject to any right, title, interest, or other claim a person acquired in the property before or after the sale of the property to the land bank, including a right of first

refusal, right of second refusal, and any other right, title, interest, or other claim provided by this chapter, other than the right of reverter provided by Section 379D.009(d); and

(ii) the title is subject only to:

(a) the recorded restrictive covenants, liens, and valid easements of recorded described by Section 34.01(n), Tax Code;

(b) any rights of redemption applicable to the property;

(c) any cause of action to impeach the property deed based on a claim of fraud;

(d) the right of reverter provided by Section 379D.009(d) and the recorded deed restrictions described by Section 379D.010; and

(e) any right, title, interest, or other claim with respect to the property that arose after the sale of the property to the land bank under a law other than this chapter; and

(B) may conclusively presume that:

(i) the sale of the property to the land bank under this chapter was valid; and

(ii) a mortgage on or a subsequent sale of the property complies with this chapter and is subject only to a right, title, interest, or other claim provided by Paragraph (A)(ii).

SECTION \_\_\_\_\_. Section 379D.015, Local Government Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act and concerns property that is first purchased by a land bank under Section 379D.015, Local Government Code, on or after the effective date of this Act.

### **HB 2198 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2198**, A bill to be entitled An Act relating to authorizing certain public junior colleges to offer baccalaureate degree programs.

Representative Bonnen moved to concur in the senate amendments to **HB 2198**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1834):  
140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;

Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Hughes; Moreno; Oliveira.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 2198** as follows:

(1) In SECTION 1 of the bill, Section 130.0012, Education Code, subsection (b) line 19, between "programs" and "and", insert "." and strike "and shall authorize baccalaureate degree programs at an additional public junior college if the coordinating board determines that it is in the best interest of this state for that public junior college to offer those degree program after considering the criteria established by the coordinating board under Subsection (e)"

(2) In SECTION 1 of the bill, beginning on page 2, line 12, between "determining" and page 2, line 13 "what", strike "whether a public junior college may offer baccalaureate degree programs and".

(3) In SECTION 1 of the bill, beginning on page 4, line 6, strike "(i) The".

(4) In SECTION 1 of the bill, beginning on page 4, line 7, strike "coordinating board shall establish an application process to select additional public junior colleges that will be authorized to offer baccalaureate degree programs under this section".

(5) Beginning on page 5, line 13, strike SECTION 2 entirely, and renumber subsequent sections accordingly.

### **HB 2994 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2994**, A bill to be entitled An Act relating to certain agreements made with electric power generation facilities under the Property Redevelopment and Tax Abatement Act and to similar agreements and compliance reports under the Texas Economic Development Act.

Representative Bonnen moved to concur in the senate amendments to **HB 2994**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1835):  
139 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Gonzalez Toureilles; Moreno; Oliveira; Veasey.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1835. I intended to vote no.

Herrero

I was shown voting yes on Record No. 1835. I intended to vote no.

Leibowitz

### Senate Committee Substitute

**CSHB 2994**, A bill to be entitled An Act relating to certain agreements made with electric power generation facilities under the Property Redevelopment and Tax Abatement Act and to similar agreements and compliance reports under the Texas Economic Development Act.

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

SECTION 1. Subchapter C, Chapter 312, Tax Code, is amended by adding Section 312.403 to read as follows:

Sec. 312.403. TAX ABATEMENT AGREEMENT FOR NUCLEAR ELECTRIC POWER GENERATION FACILITY IN COUNTY REINVESTMENT ZONE. (a) In this section, "nuclear electric power generation" has the meaning assigned by Section 313.024(e).

(b) An agreement made under this subchapter with the owner of property that is a nuclear electric power generation facility may include a provision that defers the effective date of the agreement to a later date agreed to by the taxing unit and the owner of the property, but not later than the seventh anniversary of the date the agreement is made.

(c) If the effective date of an agreement is deferred under Subsection (b), the agreement may have a term ending not later than 10 years after the effective date of the agreement, notwithstanding Sections 312.204 and 312.208.

SECTION 2. Sections 313.021(1) and (4), Tax Code, are amended to read as follows:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, and is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting; ~~[or]~~

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by Subparagraph (i); or

(E) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), ~~(B)~~, (C), or (D).

(4) "Qualifying time period" means:

(A) the first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved, except as provided by Paragraph (B); or

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

SECTION 3. Section 313.024, Tax Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsection (c) to read as follows:

(a-1) Notwithstanding Subsection (a), this subchapter and Subchapters C and D also apply to property used in the production of nuclear electric power that is owned by an entity to which on and after January 1, 2008, Chapter 171 of this code, as amended by Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, will apply. This subsection expires January 1, 2008.

(b-1) Notwithstanding Subsection (b), property used in connection with electric power generation by the use of integrated gasification combined cycle technology or nuclear electric power generation is eligible for a limitation on appraised value under this subchapter. This subsection expires January 1, 2008.

(c) For purposes of determining an applicant's eligibility for a limitation under this subchapter:

(1) the land on which a building or component of a building described by Section 313.021(1)(E) ~~[313.021(1)(C)]~~ is located is not considered a qualified investment;

(2) property that is leased under a capitalized lease may be considered a qualified investment;

(3) property that is leased under an operating lease may not be considered a qualified investment; and

(4) property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

SECTION 4. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

(1) manufacturing;

(2) research and development;

- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) a gasification project for a coal and biomass mixture; [✕]
- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology; or
- (7) nuclear electric power generation.

SECTION 5. Section 313.024(e), Tax Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(4) "Nuclear electric power generation" means activities described in category 221113 of the 2002 North American Industry Classification System.

SECTION 6. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.032 to read as follows:

Sec. 313.032. REPORT ON COMPLIANCE WITH AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report assessing the progress of each agreement made under this chapter. The report must be based on data certified to the comptroller by each recipient of a limitation on appraised value under this subchapter and state for each agreement:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the new jobs each recipient created;

(4) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(5) the amount of the qualified investment each recipient spent or allocated for each project;

(6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value;

(9) the dollar amount of the taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and

(11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

(b) The report may not include information that is confidential by law.

(c) The comptroller may require a recipient to submit, on a form the comptroller provides, information required to complete the report.

SECTION 7. (a) The governmental acts and proceedings of the governing body of a taxing unit relating to the consideration or approval of an ad valorem tax abatement agreement under Chapter 312, Tax Code, that occurred before the effective date of this Act, or of the governing body of a school district relating to the consideration or approval of a limitation on appraised value for ad valorem tax purposes under Chapter 313, Tax Code, that occurred before the effective date of this Act, are validated as of the dates they occurred.

(b) The governmental acts and proceedings of the taxing unit or the governing body of the taxing unit that occurred after the consideration or approval of an ad valorem tax abatement agreement under Chapter 312, Tax Code, or of the school district or the governing body of the school district that occurred after the consideration or approval of a limitation on appraised value for ad valorem tax purposes under Chapter 313, Tax Code, may not be held invalid on the ground that the consideration or approval of the tax abatement agreement or limitation on appraised value, in the absence of this section, was invalid.

SECTION 8. (a) Except as otherwise provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007, except as provided by Subsection (b).

(b) Section 4 of this Act takes effect January 1, 2008.

### **HB 3378 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3378**, A bill to be entitled An Act relating to the requirements governing municipal consent to the creation or expansion of certain water districts.

Representative Truitt moved to concur in the senate amendments to **HB 3378**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1836): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg;

Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Eiland; Hill; McCall; McReynolds; Moreno; Oliveira; Turner.

### Senate Committee Substitute

**CSHB 3378**, A bill to be entitled An Act relating to the requirements governing municipal consent to the creation or expansion of certain water districts.

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

SECTION 1. Section 42.042(a), Local Government Code, is amended to read as follows:

(a) A political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this subsection and the Water Code. In giving its consent, the municipality may not place any conditions or other restrictions on the creation of the political subdivision other than those expressly permitted by Sections ~~[Section]~~ 54.016(e) and (i), Water Code.

SECTION 2. Section 54.016, Water Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) A city may provide in its written consent to the inclusion of land in a district that a district water facility that serves land developed and subdivided into lots of less than one acre must meet the fire flow requirements to which the city is subject.

(j) A city may supplement its written consent in settlement of a water rate dispute with a district, and the terms of the supplement remain in effect after expiration of the written consent unless the city and the district agree otherwise.

SECTION 3. (a) Section 54.016(i), Water Code, as added by this Act, applies only to a political subdivision that adds land on or after the effective date of this Act. A political subdivision that adds land before the effective date of this Act is governed by the law in effect on the date the land was added, and the former law is continued in effect for that purpose.

(b) Section 54.016(j), Water Code, as added by this Act, applies to a supplement to a municipality's consent to the inclusion of land in a district in effect on or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 3378** (senate committee printing) in SECTION 2 of the bill, in proposed Subsection (i), Section 54.016, Water Code (page 1, line 27), between "(i)" and "A city", by inserting "This subsection applies only to a city with a population of 500,000 or more located in a county with a population of 1.4 million or more in which two or more cities or towns with a population of 300,000 or more are predominately located."

(Oliveira now present)

**HB 3584 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3584**, A bill to be entitled An Act relating to the creation of the offense of organized retail theft.

Representative Peña moved to concur in the senate amendments to **HB 3584**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1837): 141 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Coleman; Driver; Moreno.

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

Amend **HB 3584** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 31.16, Penal Code (page 1, between lines 39 and 40), following added Subsection (d), add the following:

(e) For the purposes of punishment, an offense under this section or an offense described by Section 31.03(e)(1) or (e)(2) is increased to the next highest category of offense if it is shown at the trial of the offense that the defendant, with the intent that a distraction from the commission of the offense be created, intentionally, knowingly, or recklessly caused an alarm to sound or otherwise become activated during the commission of the offense.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly

SECTION \_\_\_\_\_. The change in law made by this Act in adding Section 31.16(e), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For that purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

### **HB 779 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 779**, A bill to be entitled An Act relating to the dismissal of certain enforcement actions alleging the failure to pay child support.

Representative Dutton moved to concur in the senate amendments to **HB 779**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1838): 140 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Jackson; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez;

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Coleman; Hopson; Moreno.

### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 779** (House engrossment) by striking page 1, lines 7 through 11, and substituting the following:

"(d) The court may not find a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing with a copy of the payment record or other evidence satisfactory to the court showing that the respondent is current in the payment of child support as ordered by the court."

### **HB 1988 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1988**, A bill to be entitled An Act relating to the issuance of a protective order for a victim of the offense of sexual assault, aggravated sexual assault, or indecency with a child.

Representative Gallego moved to concur in the senate amendments to **HB 1988**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1839): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day;

Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Cook, B.; Moreno.

### Senate Committee Substitute

**CSHB 1988**, A bill to be entitled An Act relating to the issuance of a protective order for a victim of the offense of sexual assault, aggravated sexual assault, or indecency with a child.

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

SECTION 1. Article 7A.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who is the victim of an offense under Section 21.11, 22.011, or 22.021, Penal Code, a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person[?] may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender.

SECTION 2. Article 7A.03, Code of Criminal Procedure, is amended to read as follows:

Art. 7A.03. **REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER.** (a) At the close of a hearing on an application for a protective order under this chapter, the court shall find whether there are reasonable grounds to believe that the applicant is[=

(+) the victim of a sexual assault[?] and:

(1) is younger than 18 years of age; or

(2) regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.

(b) If the court finds reasonable grounds to believe that the applicant is the victim of a sexual assault and is younger than 18 years of age, or regardless of age, the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender, the court shall issue a protective order that includes a statement of the required findings.

SECTION 3. Chapter 7A, Code of Criminal Procedure, is amended by adding Article 7A.07 to read as follows:

Art. 7A.07. **DURATION OF PROTECTIVE ORDER.** (a) A protective order issued under Article 7A.03 may be effective for the duration of the lives of the offender and victim as provided by Subsection (b), or for any shorter period stated in the order. If a period is not stated in the order, the order is effective until the second anniversary of the date the order was issued.

(b) A protective order issued under Article 7A.03 may be effective for the duration of the lives of the offender and victim only if the court finds reasonable cause to believe that the victim is the subject of a threat that reasonably places the victim in fear of further harm from the alleged offender.

(c) A victim who is 17 years of age or older or a parent or guardian acting on behalf of a victim who is younger than 17 years of age may file at any time an application with the court to rescind the protective order.

(d) If a person who is the subject of a protective order issued under Article 7A.03 is confined or imprisoned on the date the protective order is due to expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.

(e) To the extent of any conflict with Section 85.025, Family Code, this article prevails.

SECTION 4. The change in law made by this Act applies to a protective order issued on or after the effective date of this Act on the basis of an offense committed before, on, or after the effective date of this Act. A protective order issued before the effective date of this Act is governed by the law in effect on the date the protective order was issued, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

### **HB 2978 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2978**, A bill to be entitled An Act relating to engineering recruitment programs established by the Texas Higher Education Coordinating Board.

Representative Alonzo moved to concur in the senate amendments to **HB 2978**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1840): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Mowery;

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Creighton; Gonzales; McClendon; Merritt; Moreno.

### STATEMENTS OF VOTE

When Record No. 1840 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1840 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

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

Amend **HB 2978** (house engrossed version), in SECTION 1 of the bill, by striking added Subdivisions (2) and (3), Subsection (b), Section 61.792, Education Code (page 2, lines 8 through 18), and substituting the following:

(2) have graduated from high school with a grade point average of at least 3.5 on a four-point scale or the equivalent in mathematics and science courses offered under the recommended or advanced high school program under Section 28.025(a); and

(3) maintain an overall grade point average of at least 3.0 on a four-point scale at the general academic teaching institution in which the student is enrolled.

### HB 3309 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 3309**, A bill to be entitled An Act relating to the ability of advocacy and support groups for victims of sexual assault to provide services for children confined in Texas Youth Commission facilities.

Representative Cohen moved to concur in the senate amendments to **HB 3309**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1841): 142 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Creighton; Moreno.

### STATEMENT OF VOTE

When Record No. 1841 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

### Senate Committee Substitute

**CSHB 3309**, A bill to be entitled An Act relating to the ability of certain advocacy and support groups to provide services for children confined in Texas Youth Commission facilities.

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

SECTION 1. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0386 to read as follows:

Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The commission shall allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, the mentally ill, and victims of sexual assault to provide on-site information, support, and other services for children confined in commission facilities.

(b) The commission shall adopt security and privacy procedures for advocacy and support groups that provide on-site information, support, and other services under this section. The security and privacy procedures may not be designed to deny an advocacy or support group access to children confined in commission facilities.

(c) The commission shall adopt standards consistent with standards adopted by the Texas Department of Criminal Justice regarding the confidential correspondence of children confined in commission facilities with external entities, including advocacy and support groups.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 3618 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3618**, A bill to be entitled An Act relating to certain health programs and grants and other related funds for school districts located in the border region.

Representative Pickett moved to concur in the senate amendments to **HB 3618**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1842): 138 Yeas, 3 Nays, 2 Present, not voting.

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

Nays — Christian; Harper-Brown; Phillips.

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

Absent, Excused — Branch; Isett.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Callegari; Moreno; Villarreal.

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

Amend **HB 3618** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 168, Health and Safety Code, is amended by adding Sections 168.010 and 168.011 to read as follows:

Sec. 168.010. DIABETES INTERVENTION PILOT PROGRAM FOR SCHOOL DISTRICTS LOCATED ON THE TEXAS-MEXICO BORDER. (a) This section applies only to a school district located in a county that:

(1) has a population of less than 600,000; and

(2) is located on the international border.

(b) The department, in consultation with the Texas Education Agency, shall adopt criteria for the development of a pilot program that is designed to prevent and detect Type 2 diabetes for a school district described by Subsection (a) that has a student population identified by the commissioner as at risk for Type 2 diabetes and that takes into account the needs of the school district. A pilot program developed under this subsection must provide that:

(1) for each student in kindergarten through grade eight, each school in the school district must:

(A) measure the height, weight, and blood glucose levels of the student at the beginning of the school year and at another appropriate time during the implementation of the program; and

(B) track the measurements of the student and the progress of the student under the program through a data entry system provided over the Internet; and

(2) the pilot program components consist of bilingual materials.

(c) A school district to which Subsection (a) applies may choose to participate in a pilot program under this section. In the first year a school district implements a program under this section, the district shall report the measurements of student height, weight, and blood glucose levels and the progress of a student under the program to the entity that administers the program. The administering entity, in cooperation with the department, shall evaluate and analyze the measurements to determine the effectiveness of the program in the first year.

(d) The department shall, from money appropriated for that purpose, distribute money to each school district that chooses to implement a pilot program under this section to cover the costs associated with the program.

Sec. 168.011. GRANT-WRITING COORDINATION PROGRAM. (a) The department shall employ one person as a grant writer to assist and coordinate with school districts located in the Texas-Mexico border region in obtaining grants and other funds for school-based health centers.

(b) A grant writer employed under this section may secure a grant or other funds on behalf of the state for a school-based health center.

(c) Funds obtained by the use of a grant writer employed under this section may be used only to:

(1) acquire, construct, or improve facilities for a school-based health center;

(2) purchase or lease equipment or materials for a school-based health center; or

(3) pay the salary or employment benefits of a person who is employed to work exclusively in a school-based health center.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 1137 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1137**, A bill to be entitled An Act relating to eligibility and attendance requirements in public schools.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1137**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1137**: Hochberg, chair; Eissler, Patrick, Dutton, and Branch.

**HB 539 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 539**, A bill to be entitled An Act relating to the regulation of fireworks and fireworks displays.

Representative W. Smith moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 539**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 539**: W. Smith, chair; Heflin, Coleman, C. Howard, and West.

**HB 13 - MOTION TO CONCUR IN SENATE AMENDMENTS**

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

**HB 13**, A bill to be entitled An Act relating to homeland security issues, including border security issues and law enforcement.

Representative Swinford moved to concur in the senate amendments to **HB 13**.

### **HB 13 - POINT OF ORDER**

Representative Burnam raised a point of order against further consideration of **HB 13** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

The chair sustained the point of order.

### **HB 3694 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 3694**, A bill to be entitled An Act relating to the enterprise zone program.

Representative Dutton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3694**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3694**: Deshotel, chair; Dutton, Kolkhorst, Straus, and Ortiz.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

### **HB 442 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 442**, A bill to be entitled An Act relating to taking or attempting to take a stun gun from a peace officer or certain other officers.

Representative Phillips moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 442**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 442**: Phillips, chair; Martinez Fischer, Driver, Talton, and Frost.

(Isett now present)

### **HB 3581 - MOTION TO CONCUR IN SENATE AMENDMENTS**

Representative C. Howard called up with senate amendments for consideration at this time,

**HB 3581**, A bill to be entitled An Act relating to county authority to abate nuisances.

Representative C. Howard moved to concur in the senate amendments to **HB 3581**.

(Gattis now present)

A record vote was requested.

The motion to concur in senate amendments was lost by (Record 1843): 51 Yeas, 84 Nays, 3 Present, not voting.

Yeas — Anderson; Bailey; Berman; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Cook, R.; Corte; Darby; Davis, J.; Eissler; Elkins; Flynn; Garcia; Geren; Goolsby; Guillen; Hamilton; Harless; Hilderbran; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Krusee; Kuempel; Latham; Macias; Menendez; Merritt; Morrison; Mowery; Naishtat; Noriega; Patrick; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Smith, W.; Strama; Straus; Villarreal; Vo; West; Zedler.

Nays — Allen; Alonzo; Anchia; Bohac; Bolton; Bonnen; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Crabb; Creighton; Crownover; Davis, Y.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Gonzales; Gonzalez Toureilles; Haggerty; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hughes; Keffer; King, P.; King, T.; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Miles; Murphy; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Pickett; Pierson; Ritter; Smith, T.; Smithee; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Woolley; Zerwas.

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

Absent, Excused — Branch.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Dukes; Giddings; Hill; Jones; King, S.; Miller; Moreno; Peña; Phillips; Rose.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1843. I intended to vote yes.

Talton

### HB 3581 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative C. Howard called up with senate amendments for consideration at this time,

**HB 3581**, A bill to be entitled An Act relating to county authority to abate nuisances.

Representative C. Howard moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3581**.

The motion prevailed.

**HB 2207 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2207**, A bill to be entitled An Act relating to the conveyance of certain residential real property encumbered by a lien.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2207**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2207**: Gallego, chair; Solomons, Darby, Straus, and Martinez.

**LEAVE OF ABSENCE GRANTED**

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

Hamilton on motion of Geren.

**HB 828 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 828**, A bill to be entitled An Act relating to the amount of the guaranteed yield under the Foundation School Program.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 828**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 828**: Hochberg, chair; Eissler, Patrick, Olivo, and Branch.

**HB 3837 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3837**, A bill to be entitled An Act relating to regulation by the Railroad Commission of Texas of uranium exploration.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 3837**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1844):  
134 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Hamilton.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Brown, F.; Dukes; Giddings; Gonzales; Hill; Howard, C.; McClendon; Moreno; Rose; Straus; Veasey.

### **Senate Committee Substitute**

**CSHB 3837**, A bill to be entitled An Act relating to regulation by the Railroad Commission of Texas of uranium exploration.

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

SECTION 1. Sections 131.001, 131.002, and 131.003, Natural Resources Code, are amended to read as follows:

Sec. 131.001. **SHORT TITLE.** This chapter may be cited as the Texas Uranium Exploration, Surface Mining, and Reclamation Act.

Sec. ~~131.002.~~ **DECLARATION OF POLICY.** The legislature finds and declares that:

(1) the extraction of minerals by surface mining operations is a basic and essential activity making an important contribution to the economic well-being of the state and nation;

(2) proper reclamation of land explored for minerals and surface-mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, and property rights of the citizens of this state;

(3) surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications for reclamation operations must vary accordingly;

(4) it is not always possible to explore for or to extract minerals required by our society without disturbing the [~~surface of the~~] earth and producing waste materials, and the very character of certain types of surface mining operations occasionally precludes complete restoration of the affected land to its original condition;

(5) unregulated surface mining may destroy or diminish the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources, which results are declared to be inimical to the public interest and destructive to the public health, safety, welfare, and economy of the State of Texas;

(6) due to its unique character or location, some land within the state may be unsuitable for all or certain types of surface mining operations;

(7) reclamation of land explored for minerals and surface-mined land as provided by this chapter will allow the mining of valuable minerals in a manner designed for the protection and subsequent beneficial use of land; and

(8) the requirements of this chapter for reclamation and maintenance of affected land are necessary for the public health and safety and thus constitute a valid application of the police power of this state.

Sec. 131.003. PURPOSES. It is declared to be the purpose of this chapter:

(1) to prevent the adverse effects to society and the environment resulting from unregulated surface mining operations as defined in this chapter;

(2) to assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from unregulated surface mining operations;

(3) to assure that surface mining operations are not conducted where reclamation as required by this chapter is not possible;

(4) to assure that exploration and surface mining operations are conducted in a manner that will prevent unreasonable degradation of land and water resources; and

(5) to assure that reclamation of all explored land and surface-mined land is accomplished as contemporaneously as practicable with the exploration or surface mining, recognizing that the exploration for and extraction of minerals by responsible [~~mining~~] operations is an essential and beneficial economic activity.

SECTION 2. Section 131.004(10), Natural Resources Code, is amended to read as follows:

(10) "Surface mining permit" or "permit" means the written certification by the commission that the named operator may conduct the surface mining operations described in the certification during the term of the surface mining permit and in the manner established in the certification. These terms do not include:

(A) a discharge permit issued by the commission pursuant to Subchapter H of this chapter; or

(B) an exploration permit issued by the commission pursuant to Subchapter I of this chapter.

SECTION 3. Sections 131.021, 131.022, 131.034, 131.048, and 131.301, Natural Resources Code, are amended to read as follows:

Sec. 131.021. GENERAL AUTHORITY OF COMMISSION. In seeking to accomplish the purposes of this chapter, the commission shall have the authority:

(1) to adopt and amend rules pertaining to exploration, surface mining, and reclamation operations consistent with the general intent and purposes of this chapter;

(2) to issue permits pursuant to the provisions of this chapter;

(3) to conduct hearings pursuant to the provisions of this chapter;

(4) to issue orders requiring an operator to take actions that are necessary to comply with this chapter and with rules adopted under this chapter;

(5) to issue orders modifying previous orders;

(6) to issue a final order revoking the permit of an operator who has failed to comply with an order of the commission to take action required by this chapter or rules adopted under this chapter;

(7) to order the immediate cessation of an ongoing exploration or surface mining operation if the commission finds that the operation creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions;

(8) to hire employees, adopt standards for employment of these persons, and hire and authorize the hiring of outside contractors to assist in carrying out the requirements of this chapter;

(9) to enter on and inspect, in person or by its agents, an exploration or a surface mining operation that is subject to the provisions of this chapter to assure compliance with the terms of this chapter;

(10) to conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise;

(11) to prepare reports and to require persons who hold exploration or surface mining permits ~~[permittees]~~ to prepare reports;

(12) to collect and disseminate to the public information considered reasonable and necessary for the proper enforcement of this chapter;

(13) to accept, receive, and administer grants, gifts, loans, or other funds made available from any source for the purposes of this chapter;

(14) to enter into contracts with state boards and agencies that have pertinent expertise to obtain professional and technical services necessary to carry out the provisions of this chapter; and

(15) to perform other duties and acts required by and provided for in this chapter.

Sec. 131.022. JURISDICTION OF COMMISSION. (a) The commission is the mining and reclamation authority for the State of Texas and has exclusive jurisdiction for establishing reclamation requirements for mining and exploration operations in this state, except for in situ recovery processes.

(b) Except as provided by Section 131.354, the commission has exclusive jurisdiction and is solely responsible for the regulation of all exploration activities.

Sec. 131.034. EXPLORATION ACTIVITIES. The commission shall promulgate rules governing uranium exploration activity ~~[in the manner provided in Sections 131.026 through 131.031 of this code for the conduct of exploration activities].~~

Sec. 131.048. CONFIDENTIALITY. Information submitted to the commission concerning mineral deposits, including test borings, core samplings, geophysical logs, or trade secrets or privileged commercial or financial information relating to the competitive rights of the applicant for an exploration permit or surface mining permit and specifically identified as confidential by the applicant, if not essential for public review as determined by the commission, shall not be disclosed by any member, agent, or employee of the commission.

Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. To prevent the pollution of surface and subsurface water in the state, the commission has the exclusive authority to ~~[shall]~~ adopt rules and may issue orders and permits relating to the discharge or runoff of waste or any other substance or material from any permitted uranium exploration activity. Notwithstanding any provision of any other section of this chapter, a rule adopted, order issued, or permit issued ~~[issuable]~~ by the commission under this subchapter shall be ~~[issued,]~~ administered~~[-]~~ and enforced solely in the manner provided by ~~[in]~~ this subchapter by the~~[-in such]~~ rule, order, or permit, or by ~~[in]~~ Chapter 2001, Government Code.

SECTION 4. Section 131.261(a), Natural Resources Code, is amended to read as follows:

(a) On the basis of any inspection, if the commission or its authorized representative or agent determines that a condition or practice exists or that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, a member of the commission shall immediately order a cessation of exploration or surface mining operations on the portion of the area relevant to the condition, practice, or violation.

SECTION 5. Sections 131.262(a) and (b), Natural Resources Code, are amended to read as follows:

(a) On the basis of an inspection, if the commission or its authorized representative or agent determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to cause significant imminent harm to land, air, or water resources, the commission shall issue a notice to the permittee or the permittee's ~~his~~ agent setting a reasonable time not to exceed 30 days for the abatement of the violation. The commission may authorize an extension of the period of time for the abatement of the violation, for good cause as determined by a written finding by the commission.

(b) If, on expiration of the period of time as originally set or subsequently extended, ~~for good cause shown, and on written finding of the commission,~~ the commission finds that the violation has not been abated, it may order a cessation of exploration or surface mining operations on the portion of this area relevant to the violation. However, if requested by the operator, a hearing must be held prior to a commission finding or order.

SECTION 6. Chapter 131, Natural Resources Code, is amended by adding Subchapter I to read as follows:

#### SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

Sec. 131.351. APPLICABILITY OF SUBCHAPTER. (a) If this subchapter conflicts with other law, this subchapter controls.

(b) Sections 131.037, 131.038, 131.039, 131.040, 131.041, 131.042, 131.043, 131.044, and 131.045 do not apply to exploration activity subject to an exploration permit issued under this subchapter.

Sec. 131.352. EXPLORATION PERMITS. (a) A person may not conduct exploration activity unless the person holds an exploration permit issued by the commission.

(b) An exploration permit issued by the commission may contain provisions and conditions necessary to implement the policies of this subchapter. The commission shall adopt rules governing the amendment, revocation, transfer, or suspension of an exploration permit.

(c) A person may conduct exploration activities under an exploration permit issued by the commission until the term expires or may apply for a new exploration permit issued under this subchapter if:

(1) the person has been exploring under an exploration permit issued before June 1, 2007; or

(2) the person has a pending application on file before June 1, 2007, and is issued the exploration permit after that date.

(d) On expiration of an exploration permit held by a person described by Subsection (c)(1) or (2), the person may apply for an exploration permit renewal under this subchapter.

Sec. 131.353. SCOPE OF EXPLORATION PERMIT. (a) An exploration permit may govern all activities associated with determining the location, quantity, or quality of uranium deposits.

(b) An exploration permit must contain provisions to govern:

(1) locating, drilling, plugging, and abandoning exploration holes;

- (2) casing exploration holes for use in the exploration process;
- (3) using cased exploration wells for rig supply purposes; and
- (4) plugging and abandoning cased exploration wells.

(c) Except as provided by Section 131.354, a cased exploration well subject to an exploration permit issued under this subchapter is exempt from regulation by another agency, governmental entity, or political subdivision if the well is:

- (1) used for exploration; or
- (2) used for rig supply purposes.

Sec. 131.354. COMMISSION JURISDICTION. (a) The commission has jurisdiction over uranium exploration holes and cased exploration wells completed under an exploration permit issued under this subchapter until:

(1) exploration holes and cased exploration wells are properly plugged and abandoned; or

(2) cased exploration wells are:

(A) registered with the Texas Commission on Environmental Quality; or

(B) included in an area permit issued by the Texas Commission on Environmental Quality under Chapter 27, Water Code.

(b) A well described by Section 131.353(c) is subject to a groundwater conservation district's rules regarding registration of wells if:

(1) the well is located in the groundwater conservation district and the well is used for monitoring purposes; and

(2) the cumulative amount of water produced from the wells located inside the area subject to the exploration permit and completed under the exploration permit issued under this subchapter exceeds 40 acre feet in one year.

(c) A well described by Section 131.353(c) is subject to a groundwater conservation district's rules for registration, production, and reporting if:

(1) the well is located in the groundwater conservation district and the well is used for rig supply purposes; and

(2) the cumulative amount of water produced from the wells located inside the area subject to the exploration permit and completed under the exploration permit issued under this subchapter exceeds 40 acre feet in one year.

(d) Each month, the holder of an exploration permit governing a well described by Section 131.353(c) and located in a groundwater conservation district shall report to the district the total amount of water produced from each well described by Section 131.353(c) and located inside the area subject to the exploration permit.

(e) Each groundwater conservation district shall use the number of acres described in the exploration permit in determining any district production requirements.

Sec. 131.355. APPLICATION FEES. (a) The commission may impose an application fee to recover the costs of administering this subchapter.

(b) Section 131.231 does not apply to a fee imposed under this subchapter.

Sec. 131.356. NOTIFICATION BY COMMISSION. (a) At the time the commission receives an application for an exploration permit, the commission shall provide written notice of the exploration permit application to:

(1) each groundwater conservation district in the area in which the permitted exploration will occur;

(2) the mayor and health authority of each municipality in the area in which the permitted exploration will occur;

(3) the county judge and health authority of each county in the area in which the permitted exploration will occur; and

(4) each member of the legislature who represents the area in which the proposed exploration will occur.

(b) At the time the commission issues an exploration permit under this subchapter, the commission shall provide written notice of the exploration permit to:

(1) each groundwater conservation district in the area in which the permitted exploration will occur;

(2) the mayor and health authority of each municipality in the area in which the permitted exploration will occur;

(3) the county judge and health authority of each county in the area in which the permitted exploration will occur; and

(4) each member of the legislature who represents the area in which the proposed exploration will occur.

Sec. 131.357. GEOLOGIC, HYDROLOGIC, WATER QUALITY, AND WELL INFORMATION. (a) A person issued an exploration permit under this subchapter that authorizes exploration in a groundwater conservation district shall provide to the district:

(1) pre-exploration water quality information from:

(A) each existing well located in the district that is tested by the person before exploration; and

(B) the following wells, as applicable:

(i) each existing well located inside the area subject to the exploration permit, if there are fewer than 10 existing wells located inside that area; or

(ii) 10 existing wells that are distributed as evenly as possible throughout the area subject to the exploration permit, if there are at least 10 existing wells located inside that area;

(2) pre-mining water quality information from:

(A) each existing well in the jurisdiction of the groundwater conservation district that the person tests during exploration; and

(B) cased exploration wells completed under the exploration permit issued under this subchapter; and

(3) well logs that do not contain confidential information as described by Section 131.048.

(b) A person may take not more than 90 days after the person receives the final information to perform standard quality control and quality assurance procedures before submitting the information as required by Subsection (a).

(c) If the commission issues to a person an exploration permit under this subchapter that governs wells described by Section 131.353(c) that are located inside a groundwater conservation district, the person shall provide to the district:

(1) the person's name, address, and telephone number; and  
(2) the following information with regard to the wells described by  
Section 131.353(c):

(A) well completion information for each well in the district;  
(B) the location of each well in the district, including a legal  
description and the acreage of the property where the well is located;  
(C) verification that each well will be used for an industrial  
purpose; and  
(D) the type and capacity of the pump used in each well.

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

### **LEAVE OF ABSENCE GRANTED**

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

Deshotel on motion of Ritter.

### **HB 1113 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 1113**, A bill to be entitled An Act relating to prohibitions on and reporting research on children within the juvenile probation system.

Representative Turner moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1113**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1113**: Turner, chair; Dutton, Madden, Bolton, and Bailey.

### **HB 3314 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE INSTRUCTED CONFERENCE COMMITTEE APPOINTED**

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

**HB 3314**, A bill to be entitled An Act relating to administration, collection, and enforcement of state taxes; providing penalties.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3314**.

The motion prevailed.

Representative Martinez Fischer moved to instruct the conference committee on **HB 3314** to remove the language of the Williams amendments from the conference committee report on **HB 3314**.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3314**: Keffer, chair; Crownover, Peña, Ritter, and Bonnen.

### **HB 3475 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3475**, A bill to be entitled An Act relating to the authority of certain counties to acquire, construct, or operate a water supply system or sewage system and own or operate a utility.

Representative Gallego moved to concur in the senate amendments to **HB 3475**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1845): 139 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Hill; Latham; Moreno; Paxton; Smithee.

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

Amend **HB 3475** (House Engrossment ) as follows:

(1) In SECTION 1 of the bill, on page 1, line 12, strike "is" and substitute with "and a national recreation are".

(2) In SECTION 1 of the bill, in proposed Section 412.017, Local Government Code, strike Subsection (b) (page 1, lines 13-19), and substitute the following:

(b) The commissioners court of a county to which this section applies may acquire, construct, or operate a water supply system of a sewage system to serve unincorporated areas of the county.

(3) In SECTION 1 of the bill, in proposed Section 412.017, Local Government Code (page 2, between lines 9 and 10), insert the following:

(g) This section does not authorize a county to sell water for a purpose other than for local use.

**HB 3613 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3613**, A bill to be entitled An Act relating to identification cards issued to peace officers, reserve law enforcement officers, and honorably retired peace officers by a law enforcement agency or other governmental entity.

Representative Latham moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3613**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3613**: Latham, chair; Driver, O'Day, Ortiz, and Vo.

**HB 3609 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3609**, A bill to be entitled An Act relating to membership and service credit in the Employees Retirement System of Texas for certain retired employees.

Representative Talton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3609**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3609**: Talton, chair; Geren, Pitts, J. Davis, and Hodge.

**HB 914 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 914**, A bill to be entitled An Act relating to the establishment of an office of inspector general at the Texas Youth Commission.

Representative Madden moved to concur in the senate amendments to **HB 914**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1846): 138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Dutton; Farrar; Gattis; Hill; Moreno; Van Arsdale.

**Senate Committee Substitute**

**CSHB 914**, A bill to be entitled An Act relating to the establishment of an office of inspector general and the authority of the state auditor to conduct audits at the Texas Youth Commission.

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

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic Beverage Commission;

(7) each member of an arson investigating unit commissioned by a city, a county, or the state;

(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9) officers commissioned by the General Services Commission;

(10) law enforcement officers commissioned by the Parks and Wildlife Commission;

(11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves commercial air carriers;

(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;

(13) municipal park and recreational patrolmen and security officers;

(14) security officers and investigators commissioned as peace officers by the comptroller;

(15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(17) investigators commissioned by the Texas Medical ~~[State]~~ Board ~~[of Medical Examiners]~~;

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned under Chapter 554, Occupations Code;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(23) investigators commissioned by the attorney general under Section 402.009, Government Code;

(24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(25) an officer employed by the ~~[Texas]~~ Department of State Health Services under Section 431.2471, Health and Safety Code;

(26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(27) officers commissioned by the state fire marshal under Chapter 417, Government Code;

(28) an investigator commissioned by the commissioner of insurance under Section 701.104 ~~[Article 1.10D]~~, Insurance Code;

(29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and [Section] 61.0931, Human Resources Code;

(30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas ~~[Commission on]~~ Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; and

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section.

SECTION 2. Section 61.0191, Human Resources Code, is amended to read as follows:

Sec. 61.0191. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) The state auditor, on request of the office of inspector general, may provide information or other assistance to the office of inspector general that the state auditor determines is appropriate. The office of inspector general may coordinate with the state auditor to review or schedule a plan for an investigation under Section 61.0451 or share other information.

(c) The state auditor may access all information maintained by the office of inspector general, such as vouchers, electronic data, and internal records, including information that is otherwise confidential under state law. Information obtained by the state auditor under this subsection is confidential and is not subject to disclosure under Chapter 552, Government Code.

(d) Any provision of this chapter relating to the operations of the office of inspector general does not:

(1) supersede the authority of the state auditor to conduct an audit under Chapter 321, Government Code; or

(2) prohibit the state auditor from:

(A) conducting an audit, investigation, or other review; or

(B) having full and complete access to all records and other information concerning the commission, including any witness statement or electronic data, that the state auditor considers necessary for the audit, investigation, or review.

SECTION 3. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0451 to read as follows:

Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general is established at the commission for the purpose of investigating:

(1) fraud committed by commission employees, including parole officers employed by or under a contract with the commission; and

(2) crimes committed at a facility operated by the commission or at a residential facility operated by another entity under a contract with the commission.

(b) The office of inspector general shall prepare and deliver a report concerning the results of any investigation conducted under this section to:

(1) the board;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities;

(6) the special prosecution unit;

(7) the state auditor; and

(8) any other appropriate state agency responsible for licensing or certifying commission employees or facilities.

(c) The report prepared under Subsection (b) must include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that fraud or a criminal offense occurred, and a description of the finding. The report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

(d) The office of inspector general may employ and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section. An inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(e) Peace officers employed and commissioned under Subsection (d) must:

(1) be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code; and

(2) complete advanced courses relating to the duties of peace officers employed and commissioned under Subsection (d) as part of any continuing education requirements for the peace officers.

(f) The board shall select a commissioned peace officer as chief inspector general. The chief inspector general is subject to the requirements of this section and may only be discharged for cause.

(g) The chief inspector general shall on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to:

(1) the board;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;

(6) the state auditor; and

(7) the comptroller.

(h) A report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and the commission shall publish the report on the commission's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

(1) the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;

(2) the relationship of a victim to a perpetrator, if applicable; and

(3) the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the commission.

(i) The office of inspector general shall immediately report to the board, the governor's general counsel, and the state auditor any particularly serious or flagrant problem concerning the administration of a commission program or operation or any interference by the board or an employee of the commission with an investigation conducted by the office.

(j) The office of inspector general or the chief inspector general, as applicable, shall provide the joint select committee on the operation and management of the Texas Youth Commission with the reports required under Subsections (b) and (g) in addition to the other persons who receive the reports under those subsections. This subsection expires February 1, 2009.

SECTION 4. As soon as practicable after the effective date of this Act, the Texas Youth Commission shall establish the office of inspector general as required by Section 61.0451, Human Resources Code, as added by this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 914** (senate committee printing) as follows:

(1) Strike SECTION 2 of the bill, amending Section 61.0191, Human Resources Code (page 2, lines 42 through 69).

(2) Strike SECTION 3 of the bill, adding Section 61.0451, Human Resources Code (page 3, line 1, through page 4, line 19), and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0451 to read as follows:

Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general is established at the commission for the purpose of investigating:

(1) crimes committed by commission employees, including parole officers employed by or under a contract with the commission; and

(2) crimes and delinquent conduct committed at a facility operated by the commission or at a residential facility operated by another entity under a contract with the commission.

(b) The office of inspector general shall prepare and deliver a report concerning the results of any investigation conducted under this section to:

(1) the executive commissioner;

(2) the advisory board;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) the standing committees of the senate and house of representatives

with primary jurisdiction over matters concerning correctional facilities;

(7) the special prosecution unit;

(8) the state auditor; and

(9) any other appropriate state agency responsible for licensing or certifying commission employees or facilities.

(c) The report prepared under Subsection (b) must include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that a criminal offense or delinquent conduct occurred, and a description of the finding. The report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

(d) The office of inspector general may employ and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section. An inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(e) Peace officers employed and commissioned under Subsection (d) must:

(1) be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code; and

(2) complete advanced courses relating to the duties of peace officers employed and commissioned under Subsection (d) as part of any continuing education requirements for the peace officers.

(f) The executive commissioner shall select a commissioned peace officer as chief inspector general. The chief inspector general is subject to the requirements of this section and may only be discharged for cause.

(g) The chief inspector general shall on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to:

(1) the executive commissioner;

(2) the advisory board;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;

(7) the state auditor; and

(8) the comptroller.

(h) A report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and the commission shall publish the report on the commission's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

(1) the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;

(2) the relationship of a victim to a perpetrator, if applicable; and

(3) the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the commission.

(i) The office of inspector general shall immediately report to the executive commissioner, the advisory board, the governor's general counsel, and the state auditor any particularly serious or flagrant problem concerning the administration of a commission program or operation or any interference by the executive commissioner or an employee of the commission with an investigation conducted by the office.

(3) Immediately following SECTION 3 of the bill (page 4, between lines 19 and 20), insert the following appropriately numbered SECTION:

SECTION \_\_\_\_. To the extent that any conflict exists between Sections 61.0451(a)(2) and (c), Human Resources Code, as added by this Act, and any similar provision in **SB 103**, Acts of the 80th Legislature, Regular Session, 2007,

concerning the authority of the office of inspector general to investigate crimes and delinquent conduct and to prepare and deliver reports concerning investigations of such crimes and delinquent conduct, this Act prevails and the similar provisions of **SB 103** have no effect.

(4) Renumber the SECTIONS of the bill appropriately.

**HB 2833 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2833**, A bill to be entitled An Act relating to the licensing and regulation of certain private security services.

Representative Driver moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2833**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2833**: Driver, chair; Bonnen, Taylor, West, and Latham.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Gattis on motion of Farabee.

**HB 3674 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3674**, A bill to be entitled An Act relating to the operation of property owners' associations.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3674**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3674**: J. Davis, chair; Noriega, Taylor, Gonzales, and Hopson.

**HB 3319 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE INSTRUCTED  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3319**, A bill to be entitled An Act relating to the sales and use tax.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3319**.

The motion prevailed.

Representative Dunnam moved to instruct the conference committee on **HB 3319** to remove the language of the Eltife amendment from the conference committee report on **HB 3319**.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3319**: Keffer, chair; Y. Davis, Bonnen, Hill, and Ritter.

**HB 2383 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2383**, A bill to be entitled An Act relating to the provision of certain subsidies and scholarships to particular public school students or graduates.

Representative Lucio moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2383**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2383**: Lucio, chair; Strama, Creighton, Anchia, and Hancock.

**HB 2006 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2006**, A bill to be entitled An Act relating to the use of eminent domain authority.

Representative Woolley moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2006**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2006**: Woolley, chair; Corte, R. Cook, Callegari, and Peña.

**HB 2237 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2237**, A bill to be entitled An Act relating to high school success and college and workforce readiness programs in public schools.

Representative Eissler moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2237**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2237**: Eissler, chair; Miles, Hochberg, Patrick, and Krusee.

**HB 3 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3**, A bill to be entitled An Act relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3**: Puente, chair; Morrison, Hilderbran, Straus, and Guillen.

**HB 581 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Harper-Brown called up with senate amendments for consideration at this time,

**HB 581**, A bill to be entitled An Act relating to exempting from certain employment restrictions the employment of certain children engaged in the direct sale of newspapers to the general public.

Representative Harper-Brown moved to concur in the senate amendments to **HB 581**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1847): 134 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Davis, J.; England; Hill; Jackson; Moreno; Noriega; Oliveira; Phillips; Ritter.

### Senate Committee Substitute

**CSHB 581**, A bill to be entitled An Act relating to exempting from certain employment restrictions the employment of certain children engaged in the direct sale of newspapers to the general public.

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

SECTION 1. Section 51.003(a), Labor Code, is amended to read as follows:

(a) This chapter does not apply to employment of a child:

(1) employed:

(A) in a nonhazardous occupation;

(B) under the direct supervision of the child's parent or an adult having custody of the child; and

(C) in a business or enterprise owned or operated by the parent or custodian;

(2) 11 years or older engaged in delivery of newspapers to the consumer;

(3) participating in a school-supervised and school-administered work-study program approved by the commission;

(4) employed in agriculture during a period when the child is not legally required to be attending school;

(5) employed through a rehabilitation program supervised by a county judge; ~~[or]~~

(6) engaged in nonhazardous casual employment that will not endanger the safety, health, or well-being of the child and to which the parent or adult having custody of the child has consented; or

(7) 16 years or older engaged in the direct sale of newspapers to the general public.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

#### **SB 1604 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Bonnen, the house granted the request of the senate for the appointment of a conference committee on **SB 1604**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1604**: Bonnen, chair; Escobar, T. King, Kuempel, and Driver.

#### **HB 2644 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2644**, A bill to be entitled An Act relating to the requirements for a massage therapist license.

Representative Rose moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2644**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2644**: Rose, chair; Delisi, Hartnett, Corte, and S. King.

**HB 1801 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1801**, A bill to be entitled An Act relating to the date by which a prosecuting attorney may appeal certain orders, rulings, or sentences in a criminal case.

Representative Zerwas moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1801**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1801**: Zerwas, chair; Escobar, Peña, Pierson, and Vaught.

**HB 3438 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3438**, A bill to be entitled An Act relating to the powers and duties of the Rio Grande Regional Water Authority and the establishment of a member conference.

Representative Gonzales moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3438**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3438**: Flores, chair; Gonzales, Peña, Guillen, and Raymond.

**HB 4 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 4**, A bill to be entitled An Act relating to water conservation.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 4**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4**: Puente, chair; Laubenberg, Guillen, Creighton, and McClendon.

**HB 866 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Y. Davis called up with senate amendments for consideration at this time,

**HB 866**, A bill to be entitled An Act relating to local control of firefighter and police officer employment matters in certain municipalities.

Representative Y. Davis moved to concur in the senate amendments to **HB 866**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1848): 140 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Gallego; Hochberg; Moreno.

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

Amend **HB 866** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Subdivision (2), Section 147.002, Local Government Code, strike added Paragraph (A) (page 1, lines 28 through 30), and substitute the following:

(A) in which firefighters of the municipality have participated and paid dues via automatic payroll deduction for at least one year; and

(2) In added Subdivision (4), Section 147.002, Local Government Code, strike added Paragraph (A) (page 1, lines 42 through 44), and substitute the following:

(A) in which at least three percent of the police officers of the municipality have participated and paid dues via automatic payroll deduction for at least one year; and

(3) Immediately following added Section 147.003, Local Government Code (page 2, between lines 15 and 16), insert the following:

Sec. 147.0031. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from the meet and confer team a petition signed by a majority of all police officers and a majority of all firefighters, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), that requests recognition of the meet and confer team as the sole and exclusive bargaining agent for all the police officers and firefighters employed by the municipality, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), the governing body shall:

(1) grant recognition of the meet and confer team as requested in the petition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033;

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether the municipality may meet and confer under this chapter; or

(3) order a certification election under Section 147.0032 to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of the covered firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the employee groups that are part of the meet and confer team are certified to represent a majority of the covered police officers and a majority of the covered firefighters, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the meet and confer team as requested in the petition for recognition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033; or

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether a public employer may meet and confer under this chapter.

Sec. 147.0032. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 147.0031(a)(3) to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) Each employee group in the meet and confer team is liable for the expenses of the certification election for the employees the group represents.

Sec. 147.0033. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 147.0031 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Sec. 147.0034. WITHDRAWAL OF RECOGNITION. (a) The police officers and firefighters may withdraw the recognition of the meet and confer team granted under this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers and a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) withdraw recognition as provided by the petition; or

(2) order a certification election in accordance with Section 147.0032 regarding whether to do so.

Sec. 147.0035. RECOGNITION OF MEET AND CONFER TEAM. (a) A public employer in a municipality that chooses to meet and confer under this chapter shall recognize the meet and confer team that is recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the police officers and firefighters, excluding the head of the police department, head of the fire department, and the employees exempt under Subsection (b), in accordance with this chapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are employees appointed by the head of the police department or fire department in the classification immediately below that of department head or that are exempt by the mutual agreement of the meet and confer team and the municipality.

(c) The municipality shall recognize the meet and confer team until recognition of the meet and confer team is withdrawn in accordance with Section 147.0034 by a majority of the police officers and a majority of the firefighters who are eligible to sign a petition for recognition.

(4) In added Subsection (a), Section 147.004, Local Government Code (page 2 lines 20 and 21), between "meet and confer team" and "come to a mutual agreement", insert "recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the covered police officers and firefighters".

(5) Strike added Subsection (b), Section 147.006, Local Government Code (page 2, lines 56 through 58).

(6) In added Subsection (c), Section 147.006, Local Government Code (page 2, line 59), strike "(c)" and substitute "(b)".

(7) Immediately following added Section 147.008, Local Government Code (page 3, between lines 26 and 27), insert the following:

Sec. 147.009. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) The governing body of a municipality that granted recognition of a meet and confer team under Section 147.0031 without conducting an election under Section 147.0033 may withdraw recognition of the meet and confer team by providing to the meet and confer team not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the meet and confer team; and

(2) any agreement between the governing body and the meet and confer team will not be renewed.

(b) The governing body of a municipality that granted recognition of a meet and confer team after conducting an election under Section 147.0033 may order an election to determine whether a public employer may continue to meet and confer under this chapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 147.0033.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this chapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Sec. 147.010. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the firefighters and police officers under 147.008, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that the governing body is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on (date agreement was ratified) by the (name of the governing body of the municipality) and the police officers and firefighters employed by the City of \_(name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Sec. 147.010. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This chapter may not be construed to repeal any existing benefit provided by statute or ordinance concerning police officers' or firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments except as expressly provided in a ratified meet and confer agreement. This chapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This chapter may not be construed to interfere with the free speech right, guaranteed by the First Amendment to the United States Constitution, of an individual firefighter or a police officer to endorse or dissent from any agreement.

**HB 3315 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3315**, A bill to be entitled An Act relating to the imposition and collection of certain insurance taxes, the adoption of certain reciprocal or multistate agreements relating to those taxes, and the adoption of rules relating to those taxes.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3315**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3315**: Keffer, chair; Y. Davis, McReynolds, Paxton, and R. Cook.

**HB 946 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 946**, A bill to be entitled An Act relating to conduct that constitutes the offense of endangering a child.

Representative Miller moved to concur in the senate amendments to **HB 946**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1849): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery;

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Burnam; Coleman; Frost; Moreno.

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

Amend **HB 946** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (1) (page 1, line 18), strike "or".

(2) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (2) (page 1, line 23), between "child's body" and the period, insert:

"; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code".

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 946** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1122 to read as follows:

Sec. 481.1122. MANUFACTURE OF SUBSTANCE IN PENALTY GROUP I: PRESENCE OF CHILD. If it is shown at the punishment phase of a trial for the manufacture of a controlled substance listed in Penalty Group I that when the offense was committed a child younger than 18 years of age was present on the premises where the offense was committed:

(1) the punishment specified by Sections 481.112(b) and (c) are increased by one degree;

(2) the minimum term of imprisonment specified by Section 481.112(e) is increased to 15 years and the maximum fine specified by that section is increased to \$150,000; and

(3) the minimum term of imprisonment specified by Section 481.112(f) is increased to 20 years and the maximum fine specified by that section is increased to \$300,000.

## **HB 1960 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1960**, A bill to be entitled An Act relating to access to records or files concerning a child who is subject to the juvenile justice system.

Representative Ortiz moved to concur in the senate amendments to **HB 1960**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1850): 140 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Driver; Moreno; Patrick.

#### STATEMENT OF VOTE

When Record No. 1850 was taken, I was in the house but away from my desk. I would have voted yes.

Patrick

#### Senate Committee Substitute

**CSHB 1960**, A bill to be entitled An Act relating to access to records or files concerning a child who is subject to the juvenile justice system.

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

SECTION 1. Section 58.007, Family Code, is amended by amending Subsection (e) and adding Subsection (j) to read as follows:

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, ~~and~~ a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

SECTION 2. This Act takes effect September 1, 2007.

### **HB 2532 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2532**, A bill to be entitled An Act relating to the expulsion and placement in alternative settings of public school students who engage in conduct constituting certain felonies.

Representative Patrick moved to concur in the senate amendments to **HB 2532**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1851): 141 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Callegari; Moreno.

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

Amend **HB 2532** (senate committee printing) as follows:

(1) Immediately following SECTION 1 of the bill (page 2, between lines 35 and 36), insert the following appropriately numbered SECTIONS:

SECTION \_\_\_\_\_. Chapter 37, Education Code, is amended by adding Subchapter I to read as follows:

**SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS**

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS UNDER COURT SUPERVISION. (a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS NOT UNDER COURT SUPERVISION. A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309

for one semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

- (1) threatens the safety of other students or teachers;
- (2) will be detrimental to the educational process; or
- (3) is not in the best interests of the district's students.

Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION PROGRAM. (a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

- (1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;
- (2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;
- (3) an instructor from the alternative education program to which the student is assigned;
- (4) a school district designee selected by the board of trustees; and
- (5) a counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

- (1) threatens the safety of other students or teachers;
- (2) will be detrimental to the educational process; or
- (3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

- (1) does not threaten the safety of other students or teachers;
- (2) will not be detrimental to the educational process; and
- (3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH DISABILITY. (a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) Except as provided by Subsection (b), a school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice alternative education program is entitled to funding for a student who is placed in the program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

Sec. 37.311. CONFERENCE. (a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the

student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

Sec. 37.312. LIABILITY. This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

Sec. 37.313. CONFLICTS OF LAW. To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

SECTION \_\_\_\_ . Article 15.27, Code of Criminal Procedure, is amended by amending Subsections (b) and (c) and adding Subsections (a-1) and (j) to read as follows:

(a-1) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a) if the superintendent or the person designated by the superintendent determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or on the next school day. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, ~~promptly~~ notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, ~~or~~ probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and

the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment notify the new school officials of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The new school officials shall, within 24 hours of receiving notification under this subsection, [promptly] notify all instructional and support personnel who have regular contact with the student.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

SECTION \_\_\_\_\_. Subsection (d), Article 15.27, Code of Criminal Procedure, is repealed.

SECTION \_\_\_\_\_. Subchapter I, Chapter 37, Education Code, as added by this Act, applies only to an offense committed on or after September 1, 2007. An offense committed before September 1, 2007, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2007, if any element of the offense occurred before that date.

(2) In SECTION 2(a) of the bill (page 2, line 36), strike "This Act" and substitute "Section 37.0081, Education Code, as amended by this Act,".

(3) Renumber the SECTIONS of the bill appropriately.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 2532** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0082 to read as follows:

Sec. 37.0082. ASSESSMENT OF ACADEMIC GROWTH OF STUDENTS IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS. (a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and  
(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

(c) The commissioner shall adopt rules necessary to implement this section.

SECTION \_\_\_\_\_. (a) The Texas Education Agency shall explore alternative methods of evaluating the effectiveness of disciplinary alternative education programs. The alternative methods to be explored must include a method that includes, in addition to the indicator required under current law that is based on student performance on assessment instruments required under Sections 39.023(a) and (c), Education Code, indicators relating to student academic growth, course completion, and behavior improvement.

(b) Not later than November 1, 2008, the Texas Education Agency shall submit a report of its conclusions and recommendations resulting from the action required by Subsection (a) of this section to the presiding officers of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system or the commitment and rehabilitation of youths.

### **HB 3692 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3692**, A bill to be entitled An Act relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.

Representative Straus moved to concur in the senate amendments to **HB 3692**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1852): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunn; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller;

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno.

### Senate Committee Substitute

**CSHB 3692**, A bill to be entitled An Act relating to the denial or revocation of bail for a person who violates certain court orders or conditions of bond related to victim or community safety.

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

SECTION 1. The heading to Section 25.07, Penal Code, is amended to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE [~~PROTECTIVE ORDER OR MAGISTRATE'S ORDER~~].

SECTION 2. Sections 25.07(a) and (g), Penal Code, are amended to read as follows:

(a) A person commits an offense if, in violation of a condition of bond set in a family violence case and related to the safety of the victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code~~, under Article 17.292, Code of Criminal Procedure~~, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order or condition of bond:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends; or

(4) possesses a firearm.

(g) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the [~~protective~~] order or condition of bond by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

SECTION 3. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.152 to read as follows:

Art. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE. (a) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, related to a violation of a condition of bond set in a family violence case and whose bail in the case under Section 25.07, Penal Code, or in the family violence case is revoked or forfeited for a violation of a condition of bond may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person violated a condition of bond related to:

(1) the safety of the victim of the offense under Section 25.07, Penal Code, or the family violence case, as applicable; or

(2) the safety of the community.

(c) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, other than an offense related to a violation of a condition of bond set in a family violence case, may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person committed the offense.

(d) A person who commits an offense under Section 25.07(a)(3), Penal Code, may be held without bail under Subsection (b) or (c), as applicable, only if following a hearing the judge or magistrate determines by a preponderance of the evidence that the person went to or near the place described in the order or condition of bond with the intent to commit or threaten to commit:

(1) family violence; or

(2) an act in furtherance of an offense under Section 42.072, Penal Code.

(e) In determining whether to deny release on bail under this article, the judge or magistrate may consider:

(1) the order or condition of bond;

(2) the nature and circumstances of the alleged offense;

(3) the relationship between the accused and the victim, including the history of that relationship;

(4) any criminal history of the accused; and

(5) any other facts or circumstances relevant to a determination of whether the accused poses an imminent threat of future family violence.

(f) A person arrested for committing an offense under Section 25.07, Penal Code, shall without unnecessary delay and after reasonable notice is given to the attorney representing the state, but not later than 48 hours after the person is arrested, be taken before a magistrate in accordance with Article 15.17. At that time, the magistrate shall conduct the hearing and make the determination required by this article.

SECTION 4. Article 17.40(b), Code of Criminal Procedure, is amended to read as follows:

(b) At a hearing limited to determining whether the defendant violated a condition of bond imposed under Subsection (a), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

SECTION 5. Article 22.021, Code of Criminal Procedure, is repealed.

SECTION 6. This Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 7. This Act takes effect January 1, 2008, but only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the denial of bail to a person who violates certain court orders or conditions of release in a felony or family violence case is approved by the voters. If that constitutional amendment is not approved by the voters, this Act has no effect.

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

Amend **HB 3692** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 45.049 Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

(g) This subsection applies only to a defendant who is charged with a traffic offense or an offense under Section 106.05, Alcoholic Beverage Code, and is a resident of this state. If under Article 45.051(b)(10), Code of Criminal Procedure,

the judge requires the defendant to perform community service as a condition of the deferral, the defendant is entitled to elect whether to perform the required governmental entity or nonprofit organization community service in:

(1) the county in which the court is located; or

(2) the county in which the defendant resides, but only if the entity or organization agrees to:

(A) supervise the defendant in the performance of the defendant's community service work; and

(B) report to the court on the defendant's community service work.

(h) This subsection applies only to a defendant charged with an offense under Section 106.05, Alcoholic Beverage Code, who, under Subsection (g), elects to perform the required community service in the county in which the defendant resides. The community service must comply with Sections 106.071(d) and (e), Alcoholic Beverage Code, except that if the educational programs or services described by Section 106.071(e) are not available in the county of the defendant's residence, the court may order community service that it considers appropriate for rehabilitative purposes.

SECTION \_\_\_\_\_. The changes made to Article 45.049, Code of Criminal Procedure, by this Act take effect September 1, 2007.

### **HB 3851 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS**

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

**HB 3851**, A bill to be entitled An Act relating to the admission of high school graduates and undergraduate transfer students to certain institutions of higher education, the computation of a student's high school grade point average for purposes of determining eligibility for admission, and policies to promote the admission of undergraduate transfer students.

Representative Morrison moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3851**.

The motion prevailed.

### **HB 3851 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE COLEMAN: Chairwoman Morrison, is one of those amendments dealing with Texas Southern University and the challenges that are occurring there?

REPRESENTATIVE MORRISON: Yes, that is one. There were six amendments put on this bill.

COLEMAN: Okay, and I'm asking you specifically about that one. Now, do you know that under **HB 15**, the senate version, that it says that if that particular piece of legislation doesn't pass, or the university doesn't go into conservatorship, that they won't get the money that they need for their emergency appropriation, or the OCR money that's in the budget?

MORRISON: I remember the bill, I'm not sure what, I understand there might be something appropriated of it. I don't know where that is, Garnet, and that's why I'm not going to concur, because I need to find out exactly where all of the issues are.

COLEMAN: Well, I guess I'm asking you, would you work with me, because one of the things that the governor has said is that if that piece of legislation doesn't pass, that he's going to put conservatorship of Texas Southern back on the table. Have you heard that?

MORRISON: I have not directly heard that from the governor, but I will find out about all that before I come back with—

COLEMAN: So knowing that, and I have talked to the governor's office about it, knowing that maybe his intent, if he has no other alternatives, understanding that taking that off would mean that the university would go into conservatorship, how do we resolve that?

MORRISON: Well, I will gladly talk to the governor, and find out what the intent is.

COLEMAN: Okay, I would appreciate it if you would do that, because you know that the bill that we had did not make it to the calendar with the bills on the last calendar that was set.

MORRISON: Right.

COLEMAN: And I think—

MORRISON: But did not get—

COLEMAN: No, it was not set. It was not even set on the last calendar, Chairwoman Morrison. You passed the bill out of committee.

MORRISON: Out of committee.

COLEMAN: And the information got to the committee in time, but the bill was not set on the calendar, and so my concern is that without that language that we have a problem with the issues that regard accountability of Texas Southern, but also the accountability that this state has for one of its institutions.

MORRISON: And I understand, Mr. Coleman, that this issue has been fixed in **HB 15** and Appropriations.

COLEMAN: I don't know about that.

MORRISON: I don't either.

COLEMAN: If Mr. Chisum wants to tell me about that, I understand that they're going to strip the rider you told me that was put on the bill, Mr. Chisum, and I'm trying to understand what's going on. So I guess he'll be able to answer those questions.

MORRISON: Would you like for Mr. Chisum to—

COLEMAN: That would be fine, because this is a very important issue, and I need some assurances before I leave here and go back to Houston that these issues are resolved, and since the way to resolve that issue is attached to your house bill, we might as well have this discussion now.

REPRESENTATIVE CHISUM: Mr. Coleman, that's a deal we're working with right now, and we know that the bill did not pass. It is covered in Amendment No. 2 from the senate in **HB 15**.

COLEMAN: I know.

CHISUM: It does not require—all it requires is a plan approved by the Legislative Budget Board and the governor to go forward with Texas Southern.

COLEMAN: And I understand that, Mr. Chairman, but my concern is whether or not the plan that the governor would approve, the only plan the governor would approve, would be conservatorship, Mr. Chairman. So the reason why I'm asking these questions is because I don't want to leave here without an understanding that the intention is to put Texas Southern University into conservatorship, because the governor is not concurring with what is going on either on **HB 15**, **HB 1**, or on **HB 3851**.

CHISUM: And I can tell you that is not our intent to put a conservatorship at Texas Southern because—

COLEMAN: So you're guaranteeing me right now on this mic, that the Legislative Audit Committee, and you as a member, and the speaker, will not put Texas Southern University into conservatorship, based on just us standing right here?

CHISUM: I will absolutely do that, all that we are going to require is that you submit to a plan approved by the Legislative Budget Board and the governor, to a rehabilitation plan. That is all it is.

COLEMAN: If the governor does not approve the rehabilitation program, then how do you move forward if it requires both of the Legislative Budget Board and the governor's office to assent to that?

CHISUM: Well, we're assuming that it's a plan that the governor's people are putting together, I don't know how you would assume that we're not going to —

COLEMAN: Well, you know what they say about assuming, Mr. Chairman.

CHISUM: Now listen, I'm talking to you in a very civil manner.

COLEMAN: I'm being very civil too, but this is an important issue.

CHISUM: It's a very important issue.

COLEMAN: Yes, it is.

CHISUM: It is a very important issue, and I understand it, but the governor's people, and the new board of regents are putting together that plan under the governor's close supervision. I assume that he will adopt that plan and we will move forward.

COLEMAN: Well, Mr. Chairman, that's why I asked you whether or not there are assurances before we leave here, that those things will be done, so that we're not leaving any of this to chance when we have the opportunity to make sure that we have resolved these issues before May 28th.

CHISUM: What do I need to say? I don't know what else to say.

COLEMAN: Well, the reason I'm asking the question is you told me you would put the rider on the bill that we had written and I understand now it's being removed.

CHISUM: That's correct.

COLEMAN: That's correct, correct?

CHISUM: That is correct on **HB 1**.

COLEMAN: That's right. Removed from **HB 1**, and I'm understanding that's not because you came and told me, because I found out inadvertently, and so now I'm concerned, because I thought that was something that would move forward as a provision on the budget that would deal with these issues, but I guess you all have chosen not to do that.

CHISUM: Yes.

COLEMAN: Okay, and so by taking that off, can you guarantee me that the governor's office and that everyone else is satisfied that this is a solution that protects the university into the interim from conservatorship?

CHISUM: That is our intent, yes, sir.

COLEMAN: That may be your intent, but do you have an agreement with the governor that that would be his intent, in terms of working with the Legislative Audit Committee?

CHISUM: You're asking me to speak for the governor. I am not entitled to speak for the governor. I have no other indication, in speaking with the governor's people, that their intent is to move forward with the rehabilitation plan. But I will not speak for the governor.

COLEMAN: Okay, but is it the intent of the Legislative Audit Committee, which you serve on, to concur with the governor's recommendation of conservatorship, if he happens to recommend it to you again, because you know, Mr. Chairman, you told me that, "well, that's what the governor wants, so that's what we're going to do," and so I'm trying to figure out if that has changed, Mr. Chairman?

CHISUM: At this point, we intend—

COLEMAN: No, not at this point, I mean—

CHISUM: Let me tell you; I don't know what else to tell you. We want a plan to work. We want a plan to be adopted, and we want a plan to work. We do not want, and have not even been asked, to appoint a conservator, we want a plan to work.

**REMARKS ORDERED PRINTED**

Representative Coleman moved to print remarks between Representative Morrison and Representative Coleman, and Representative Chisum and Representative Coleman.

The motion prevailed.

**HB 3851 - CONFERENCE COMMITTEE APPOINTED**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3851**: Morrison, chair; Aycock, F. Brown, Rose, and Patrick.

**HB 1267 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE INSTRUCTED  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1267**, A bill to be entitled An Act relating to the compensation of counsel appointed to defend an indigent defendant in a criminal proceeding.

Representative Peña moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1267**.

The motion prevailed.

Representative Talton moved to instruct the conference committee on **HB 1267** to remove the language of Senate Amendment No. 4 from the conference committee report on **HB 1267**.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1267**: Peña, chair; Talton, Hartnett, Escobar, and Gattis.

**HB 814 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 814**, A bill to be entitled An Act relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.

Representative Dutton moved to concur in the senate amendments to **HB 814**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1853): 135 Yeas, 6 Nays, 2 Present, not voting.

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

Nays — Crownover; Harper-Brown; Macias; Paxton; Taylor; Van Arsdale.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Moreno; Mowery.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1853. I intended to vote no.

Laubenberg

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

Amend **HB 814** (Senate Committee Printing) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 31 through 52) and substitute the following:

SECTION 2. Section 103.052, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (d) to read as follows:

(a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

(1) \$50,000 [~~\$25,000~~] multiplied by the number of years served in prison, expressed as a fraction to reflect partial years; and [~~if the time served is less than 20 years; or~~]

(2) compensation for child support payments owed by the person that became due and interest on child support arrearages that accrued during the time served in prison but were not paid [~~\$500,000 if the time served is 20 years or more~~].

(a-1) Notwithstanding Subsection (a)(1), a person sentenced to death who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$100,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.

(b) A person who is owed an amount of compensation under Subsection (a)(1) or (a-1) equal to or greater than \$50,000 shall be paid that compensation in two equal annual installments.

(d) The amount of compensation under Subsection (a)(2) to which a person is entitled shall be paid on the person's behalf in a lump-sum payment to the state disbursement unit, as defined by Section 101.0302, Family Code, for distribution to the obligee under the child support order.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 103.105(c), Civil Practice and Remedies Code, is repealed.

(3) In SECTION 8 of the bill (page 3, line 7), strike "The changes" and substitute "(a) Except as provided by Subsection (b) of this section, the changes".

(4) In SECTION 8 of the bill (page 3, between lines 10 and 11) insert Subsection (b) to read as follows:

(b) Sections 103.052(a)(1) and (a-1), Civil Practice and Remedies Code, as amended and added, respectively, by this Act, apply to an administrative proceeding for compensation for wrongful imprisonment for which the application is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

**HB 1919 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1919**, A bill to be entitled An Act relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.

Representative T. Smith moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1919**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1919**: T. Smith, chair; Farabee, Smithee, Hancock, and J. Davis.

**HB 4029 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4029**, A bill to be entitled An Act relating to the creation of the Lavaca County Groundwater Conservation District; providing authority to impose a tax.

Representative Morrison moved to concur in the senate amendments to **HB 4029**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1854): 137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chisum; Hill; Moreno; Noriega; Parker; Straus.

#### STATEMENTS OF VOTE

When Record No. 1854 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1854 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

#### Senate Committee Substitute

**CSHB 4029**, A bill to be entitled An Act relating to the creation of the Lavaca County Groundwater Conservation District; providing authority to impose a tax.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8822 to read as follows:

CHAPTER 8822. LAVACA COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8822.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Lavaca County Groundwater Conservation District.

Sec. 8822.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Lavaca County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8822.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before September 1, 2013:

(1) the district is dissolved on September 1, 2013, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Lavaca County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2013.

Sec. 8822.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Lavaca County, Texas.

Sec. 8822.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On May 31, 2012, the district boundaries must include at least one county adjacent to Lavaca County.

(b) As soon as practicable after May 31, 2012, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

Sec. 8822.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Sec. 8822.007. DISTRICT PURPOSE. The district is created to:

(1) provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, in the Lavaca County area; and

(2) control subsidence caused by the withdrawal of water from the groundwater reservoirs or their subdivisions in the Lavaca County area.

[Sections 8822.008-8822.020 reserved for expansion]  
SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8822.021. TEMPORARY DIRECTORS. The following individuals shall serve as temporary directors for the district:

- (1) A. J. Cerny, Jr.;
- (2) August Etlinger;
- (3) J. C. Hermes;
- (4) David L. Myers; and
- (5) Larry A. Svetlik.

Sec. 8822.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Lavaca County Courthouse.

Sec. 8822.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election on the uniform election date in May 2008 to confirm the creation of the district and to elect the initial directors of the district.

(b) The temporary directors shall have placed on the ballot the name of any candidate who files for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is eligible to be a candidate under Section 8822.052 may file for an initial director's position.

(c) Except as provided by this chapter, an election under this section must be conducted as provided by Sections 36.017(b)-(g) and (i) and 36.059, Water Code, and the Election Code. Sections 36.017(a) and (h), Water Code, do not apply to an election under this section.

(d) If a majority of the votes cast at the election are not in favor of creation of the district, the elected directors shall take office as temporary directors and may hold a subsequent confirmation election on the uniform election date in May 2010 or 2012.

Sec. 8822.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8822.023, the elected directors shall take office as initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8822.025 or 8822.053.

(b) The initial director representing each of the four commissioners precincts shall draw lots to determine which two directors shall serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8822.025, and which two directors shall serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8822.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is

authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8822.024(b), serve a term expiring June 1 following that election.

Sec. 8822.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2013.

[Sections 8822.027-8822.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8822.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8822.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) Except as provided by Subsection (f), the directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

(f) If territory is added to the district, the board shall change the method of electing directors as necessary to ensure that all district voters are fairly represented. A change in the method of electing directors adopted by the board under this subsection shall be implemented at the next directors' election at which the change can be implemented consistently with the Election Code and federal law.

Sec. 8822.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

[Sections 8822.054-8822.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8822.101. GENERAL POWERS. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8822.102. PROHIBITION ON REQUIRING METERING OF EXEMPT WELLS. The district may not require meters on wells exempt from permitting or regulation under Section 36.117, Water Code.

Sec. 8822.103. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8822.104. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, notwithstanding Section 8822.102, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8822.105. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

[Sections 8822.106-8822.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8822.151. LIMITATION ON TAXES. The district may not impose ad valorem taxes at a rate that exceeds five cents on each \$100 of assessed valuation of taxable property in the district.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 4029** (senate committee printing) by striking Sec. 8822.005 (page 1, line 43 through page 1, line 56) and renumbering subsequent Sections accordingly.

**HB 1 - RULES SUSPENDED**

Representative Chisum moved to suspend all necessary rules to allow the conference committee on **HB 1** to consider Article IX, Section 19.72 and Article IX, Section 19.65 at 5:45 p.m. today in the Appropriations Committee Room.

A record vote was requested.

The motion prevailed by (Record 1855): 89 Yeas, 37 Nays, 4 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Chavez; Chisum; Christian; Cohen; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dutton; Eissler; Elkins; England; Escobar; Farabee; Flores; Flynn; Geren; Giddings; Goolsby; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; McCall; McClendon; Menendez; Miller; Morrison; Mowery; O'Day; Orr; Otto; Patrick; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Riddle; Rose; Smith, T.; Smith, W.; Smithee; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Burnam; Castro; Coleman; Cook, R.; Davis, Y.; Dunnam; Eiland; Farias; Farrar; Frost; Gallego; Garcia; Gonzales; Gonzalez Tourelles; Haggerty; Hernandez; Hochberg; Hopson; Leibowitz; Martinez; Martinez Fischer; McReynolds; Merritt; Naishtat; Oliveira; Olivo; Ortiz; Pierson; Raymond; Ritter; Rodriguez; Strama; Talton; Villarreal; Vo.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Bailey; Dukes; Guillen; Hancock; Herrero; Hill; King, S.; King, T.; Moreno; Murphy; Noriega; Parker; Pickett; Straus; Veasey.

### STATEMENTS OF VOTE

When Record No. 1855 was taken, I was in the house but away from my desk. I would have voted no.

Herrero

I was shown voting yes on Record No. 1855. I intended to vote present, not voting.

Hodge

When Record No. 1855 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1855 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

When Record No. 1855 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Appropriations, conference committee on **HB 1**, 5:45 p.m. today, Appropriations Committee Room, for a formal meeting, to consider Article IX, Section 19.65 and Article IX, Section 19.72.

### **HB 2667 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2667**, A bill to be entitled An Act relating to certain insurance-related matters involving rural volunteer firefighters, volunteer police force members, or emergency services districts.

Representative Latham moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2667**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2667**: Latham, chair; Chisum, Driver, Paxton, and J. Davis.

**HB 12 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 12**, A bill to be entitled An Act relating to the funding, powers, duties, and responsibilities of the Parks and Wildlife Department and the Texas Historical Commission.

Representative Hilderbran moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 12**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 12**: Hilderbran, chair; Chisum, Gattis, D. Howard, and O'Day.

**HB 556 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 556**, A bill to be entitled An Act relating to voting station requirements for elections held by the Hickory Underground Water Conservation District No. 1.

Representative Hilderbran moved to concur in the senate amendments to **HB 556**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1856): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Harcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla;

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Creighton; Isett; Moreno.

### STATEMENT OF VOTE

When Record No. 1856 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

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

Amend **HB 556** by adding the following appropriately numbered SECTIONS to the bill and by renumbering the existing SECTIONS as appropriate:

SECTION \_\_\_\_\_. The heading to Section 31.009, Election Code, is amended to read as follows:

Sec. 31.009. DISTRIBUTION OF CERTAIN FEDERAL FUNDS.

SECTION \_\_\_\_\_. Section 31.009 (a), Election Code, is amended to read as follows:

(a) If federal funds are made available to assist the state in the administration of elections, including assistance for the phasing out or prohibition of the use of punch-card ballot voting systems in this state, or state funds are made available to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide, the secretary of state shall administer and distribute the funds as appropriate to most effectively facilitate the purposes for which the funds are made available.

SECTION \_\_\_\_\_. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

### Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 556** by adding the following appropriately numbered SECTIONS to the bill and by renumbering the existing SECTIONS as appropriate:

SECTION \_\_\_\_\_. It is the intent of the legislature that in creating the formula for the finding of an undue burden in Subsection (c), Section 61.013, Election Code, as added by this Act, the legislature took into account the size of the political subdivision holding the election, which affects the amount of available funds and election workforce, and the costs of voting machine systems compared to previous accommodations for voters with disabilities.

SECTION \_\_\_\_\_. Subsection (a), Section 61.012, Election Code, is amended to read as follows:

(a) Except as provided by Section 61.013 [Not later than January 1, 2006], each polling place must provide at least one voting station that:

(1) complies with:

(A) Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments;

(B) [and] Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and

(C) the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

(2) provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

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

Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES: ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) For an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, the political subdivision is not required to meet the requirements of Section 61.012(a)(1)(C) if the political subdivision:

(1) is a county with a population of less than 2,000;

(2) is a county with a population of 2,000 or more but less than 5,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;

(3) is a county with a population of 5,000 or more but less than 10,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;

(4) is a county with a population of 10,000 or more but less than 20,000, and the county:

(A) makes a showing in the manner provided by Subsection (c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;

(B) provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and

(C) provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance; or

(5) is located in a county described by Subdivisions (1)-(4) and meets the same requirements as the county in which the political subdivision is located.

(b) A voter with a disability that desires a reasonable accommodation to vote in an election of a county described by Subsection (a)(1) or a political subdivision located in that county shall make a request for the accommodation

with the early voting clerk of the county or political subdivision not later than the 21st day before the date of the election. On receipt of the request, the early voting clerk shall make a reasonable accommodation to allow the voter to cast a vote.

(c) A county or political subdivision may make a showing of undue burden under Subsection (a)(4)(A) by filing an application with the secretary of state not later than the 90th day before the date of the election that states the reasons that compliance would constitute an undue burden. A showing of an undue burden may be satisfied by proof that the election costs associated with compliance with Section 61.012(a)(1)(C) constitute a significant expense for the county or political subdivision and reflect an increase of at least 25 percent in the costs of holding an election as compared to the costs of the last general election held by the county or political subdivision before January 1, 2006. Not later than the 20th day after the date of receiving an application under this section, the secretary of state shall determine whether compliance with Section 61.012(a)(1)(C) is an undue burden for the county or political subdivision.

(d) A county or political subdivision that intends to use this section to provide fewer voting stations that meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) than required by Section 61.012(a)(1)(C) must:

(1) provide notice to the secretary of state of that intent not later than the 90th day before the date of the election; and

(2) for a county described by Subsection (a)(2), (3), or (4), or a political subdivision located in such a county, publish notice of the location of each voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) in a newspaper of general circulation in the county or political subdivision not later than the 15th day before the date of the start of the period of early voting by personal appearance.

(e) For purposes of this section, a political subdivision located in more than one county may choose:

(1) to be considered located in the county that contains the greatest number of registered voters of the political subdivision; or

(2) for each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

(f) The secretary of state shall prescribe procedures and adopt rules as necessary to implement this section.

SECTION \_\_\_\_\_. Subsection (b), Section 61.012, Election Code, is repealed.

**HB 1168 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1168**, A bill to be entitled An Act relating to licensing and regulation of certain facilities providing personal care to elderly or disabled persons; providing penalties.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1168**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1168**: Menendez, chair; Kolkhorst, J. Davis, Veasey, and McClendon.

**HB 2300 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2300**, A bill to be entitled An Act relating to the carrying of weapons by certain judges and justices and district and county attorneys.

Representative Paxton moved to concur in the senate amendments to **HB 2300**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1857): 136 Yeas, 1 Nays, 2 Present, not voting.

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

Nays — Hodge.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Burnam; Moreno; Parker; Pierson; Ritter; Straus.

**STATEMENTS OF VOTE**

When Record No. 1857 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1857 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

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

Amend **HB 2300** (house engrossed version) as follows:

(1) In SECTION 6 of the bill, in added Subdivision (7), Subsection (a), Section 46.15, Penal Code (page 6, line 3), strike ", and:" and substitute ".".

(2) In SECTION 6 of the bill, strike added Paragraphs (A) and (B), Subdivision (7), Subsection (a), Section 46.15, Penal Code (page 6, lines 4 through 6).

**HB 2605 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2605**, A bill to be entitled An Act relating to the existence of a common nuisance on premises for which certain alcoholic beverage permits or licenses are held or sought.

Representative Hochberg moved to concur in the senate amendments to **HB 2605**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1858): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle;

Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Cohen; Flynn; Hardcastle; Moreno; Parker; Straus; Zedler.

### STATEMENTS OF VOTE

When Record No. 1858 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1858 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

### Senate Committee Substitute

**CSHB 2605**, A bill to be entitled An Act relating to the existence of a common nuisance on premises for which certain alcoholic beverage permits or licenses are held or sought.

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

SECTION 1. Title 3, Alcoholic Beverage Code, is amended by adding Subtitle C to read as follows:

#### SUBTITLE C. PROVISIONS APPLICABLE TO PERMITS AND LICENSES

##### CHAPTER 81. COMMON NUISANCE

Sec. 81.001. DEFINITION. In this chapter, "common nuisance" means a common nuisance as defined by Section 125.001, Civil Practice and Remedies Code, or by Section 101.70(a) of this code.

Sec. 81.002. APPLICABILITY OF CHAPTER. This chapter applies only to a permit or license that authorizes the retail sale or service of alcoholic beverages for on-premises consumption of alcoholic beverages, other than a permit or license held with a food and beverage certificate.

Sec. 81.003. SUBMISSION OF INFORMATION BY CERTAIN OFFICIALS. For the purposes of Section 81.004 or 81.005, the district or county attorney of the county, the city attorney of the city, or the state senator or state representative representing the district in which the premises are located may provide information to the commission, administrator, or county judge, as appropriate, indicating that the holder of, or applicant for, a permit or license covering the premises has used or can reasonably be expected to use or allow others to use the premises in a manner that constitutes a common nuisance.

Sec. 81.004. APPLICATION FOR ORIGINAL OR RENEWAL PERMIT OR LICENSE. The commission, administrator, or county judge, as applicable, may refuse to issue an original or renewal permit or license, after notice and an opportunity for a hearing, if the commission, administrator, or county judge finds

that, at any time during the 12 months preceding the permit or license application, a common nuisance existed on the premises for which the permit or license is sought, regardless of whether the acts constituting the common nuisance were engaged in by the applicant or whether the applicant controlled the premises at the time the common nuisance existed. The commission, administrator, or county judge, as applicable, may issue an original or renewal permit or license if, at the hearing, it is found that the applicant did not control the premises at the time the common nuisance existed and the applicant has taken reasonable measures to abate the common nuisance.

Sec. 81.005. CANCELLATION OR SUSPENSION OF PERMIT OR LICENSE. (a) The commission or administrator may suspend for not more than 60 days or cancel a permit or license if the commission or administrator finds, after notice and hearing, that the permit or license holder used or allowed others to use the permitted or licensed premises in a manner that constitutes a common nuisance.

(b) If the commission or administrator receives information from an official under Section 81.003, the commission or administrator shall consider the information and, if the commission or administrator finds the information sufficient to indicate that cancellation or suspension under Subsection (a) may be appropriate, provide notice and hold a hearing under that subsection to determine whether to suspend or cancel the permit or license.

(c) Notwithstanding Section 11.64, the commission or administrator may not give a permit or license holder the opportunity to pay a civil penalty rather than have the permit or license suspended.

Sec. 81.006. ORDER IMPOSING ADDITIONAL CONDITIONS ON PERMIT OR LICENSE HOLDER. (a) The commission, administrator, or county judge, as applicable, may, after notice and hearing under Section 81.004 or 81.005, issue an order imposing any condition on a permit or license holder that is reasonably necessary to abate a common nuisance on the premises.

(b) The commission or administrator may suspend for not more than 60 days or cancel the permit or license of a permit or license holder who violates an order issued under this section. The commission or administrator may offer the permit or license holder the opportunity to pay a civil penalty rather than have the permit or license suspended.

Sec. 81.007. TEMPORARY ORDER DURING PENDENCY OF PROCEEDING. (a) Before holding a hearing and making a determination under Section 81.004 or 81.005, the commission, administrator, or county judge, as applicable, may, if there is evidence showing a reasonable likelihood that a common nuisance exists on the premises for which the permit or license is held or sought, issue an order imposing any condition on the permit or license holder or the applicant for the permit or license that is reasonably necessary to abate a common nuisance on the premises. An order issued under this section is effective until:

(1) the expiration of the time for appealing the determination under Section 81.004 or 81.005; or

(2) if the determination is appealed, until all appeals are finally decided.

(b) A hearings officer or county judge may issue an order under this section on the hearings officer's or county judge's own motion or the motion of a person listed in Section 81.003 or, for an original or renewal permit or license application, any individual entitled to protest the issuance of the original or renewal permit or license.

(b-1) If an individual other than a person described in Subsection (b) who is entitled to protest the issuance of the original or renewal permit or license files a motion for a temporary order under this section, the commission, administrator, or county judge, as applicable, may not issue a temporary order without conducting a hearing.

(c) The hearings officer or county judge may impose any sanction on a person who violates an order issued under Subsection (a) that is necessary to secure compliance with the order.

(d) A hearing under this section must be held not later than the 10th day after the date notice is served on all interested parties. Failure to hold a hearing in the time prescribed by this subsection does not invalidate an order issued under this section.

(e) A person who requests an order under this section may not be required to post security for costs in connection with the application or any hearing conducted as a result of the application.

SECTION 2. The change in law made by Chapter 81, Alcoholic Beverage Code, as added by this Act, with respect to original or renewal license applications, applies only to an application filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **HB 2605** in SECTION 1 of the bill, in added Section 81.003 "~~[-of the state senator or state representative]~~".

### **HB 3554 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3554**, A bill to be entitled An Act relating to the program for the regulation and remediation of underground and aboveground storage tanks.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

**HB 3554 - (consideration continued)**

Representative Isett moved to concur in the senate amendments to **HB 3554**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1859):  
133 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Dutton; Farabee; Farrar; Flores; Howard, C.; Moreno; Peña; Talton; Van Arsdale.

**STATEMENT OF VOTE**

When Record No. 1859 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

**Senate Committee Substitute**

**CSHB 3554**, A bill to be entitled An Act relating to the program for the regulation and remediation of underground and aboveground storage tanks.

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

SECTION 1. Section 26.351, Water Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows:

(a) The commission shall use risk-based corrective action ~~[adopt rules establishing the requirements]~~ for taking corrective action in response to a release from an underground or aboveground storage tank. Corrective action may include:

(1) site cleanup, including the removal, treatment, and disposal of surface and subsurface contamination;

- (2) removal of underground or aboveground storage tanks;
- (3) measures to halt a release in progress or to prevent future or threatened releases of regulated substances;
- (4) well monitoring, taking of soil borings, and any other actions reasonably necessary to determine the extent of contamination caused by a release;
- (5) providing alternate water supplies; and
- (6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases of regulated substances from underground or aboveground storage tanks.

(f) The person performing corrective action under this section, if the release was reported to the commission on or before December 22, 1998, shall meet the following deadlines:

(1) a complete site assessment and risk assessment (including, but not limited to, risk-based criteria for establishing target concentrations), as determined by the executive director, must be received by the agency no later than September 1, 2002;

(2) a complete corrective action plan, as determined by the executive director and including, but not limited to, completion of pilot studies and recommendation of a cost-effective and technically appropriate remediation methodology, must be received by the agency no later than September 1, 2003. The person may, in lieu of this requirement, submit by this same deadline a demonstration that a corrective action plan is not required for the site in question under commission rules. Such demonstration must be to the executive director's satisfaction;

(3) for those sites found under Subdivision (2) to require a corrective action plan, that plan must be initiated and proceeding according to the requirements and deadlines in the approved plan no later than March 1, 2004;

(4) for sites which require either a corrective action plan or groundwater monitoring, a comprehensive and accurate annual status report concerning those activities must be submitted to the agency;

(5) for sites which require either a corrective action plan or groundwater monitoring, all deadlines set by the executive director concerning the corrective action plan or approved groundwater monitoring plan shall be met; and

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to the executive director no later than September 1, 2011 [~~2007~~]. The request must be complete, as judged by the executive director.

(i) The commission shall by rule define "risk-based corrective action" for purposes of this section.

SECTION 2. Sections 26.3573(d), (e), (r-1), and (s), Water Code, are amended to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program;

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter; ~~and~~

(3) subject to the conditions of Subsection (f) ~~(e)~~, expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility; and

(4) expenses associated with assuring compliance with the commission's applicable underground or aboveground storage tank administrative and technical requirements, including technical assistance and support, inspections, enforcement, and the provision of matching funds for grants.

(e) To consolidate appropriations, the commission may transfer from the petroleum storage tank remediation account to the waste management account an amount equal to the amounts authorized under Subsections ~~Subsection~~ (d)(1) and (4), subject to the requirements of those subsections ~~that subsection~~.

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 ~~2007~~. Not later than July 1, 2011 ~~2007~~, an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

(s) The petroleum storage tank remediation account may not be used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2012 ~~2008~~.

SECTION 3. Section 26.3574(b), Water Code, is amended to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) ~~[\$12.50 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002; and] \$10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2009, and \$3.75 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2009, through the state fiscal year ending August 31, 2011 [2007];~~

(2) ~~[\$25.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002; and] \$20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2009, and \$7.50 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2009, through the state fiscal year ending August 31, 2011 [2007];~~

(3) ~~[\$37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002; and] \$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2009, and \$11.75 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2009, through the state fiscal year ending August 31, 2011 [2007];~~

(4) ~~[\$50.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002; and] \$40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2009, [2007]; and \$15.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2009, through the state fiscal year ending August 31, 2011; and~~

(5) ~~[a \$25.00 fee for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002; and] \$20.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more~~

for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2009, and \$7.50 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2009, through the state fiscal year ending August 31, 2011 ~~[2007]~~.

SECTION 4. Sections 26.358(d), (f), and (g), Water Code, are amended to read as follows:

(d) The commission shall impose an annual facility fee on a facility that operates one or more underground or aboveground storage tanks if the fee charged under Section 26.3574 is discontinued. The commission may also impose reasonable interest and penalties for late payment of the fee as provided by commission rule. The commission may establish a fee schedule that will generate an amount of money sufficient to fund the commission's budget for the regulatory program regarding underground and aboveground storage tanks authorized by this subchapter.

(f) The amount of an ~~[maximum]~~ annual fee that the commission may impose on a facility under Subsection (d) is equal to the amount set by the commission ~~[is \$25]~~ for each aboveground storage tank and ~~[\$50]~~ for each underground storage tank operated at the facility.

(g) The commission shall collect any ~~[the]~~ fees imposed under this section on dates set by commission rule. The period between collection dates may not exceed two years.

SECTION 5. Section 26.361, Water Code, is amended to read as follows:

Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM. Notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2012 ~~[2008]~~. On or after September 1, 2012 ~~[2008]~~, the commission may not use money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 6. (a) Section 26.3573(r-1), Water Code, as amended by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 26.3573(r-1), Water Code, as amended by this Act, takes effect August 27, 2007.

(b) Except as provided by Subsection (a) of this section, this Act takes effect September 1, 2007.

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

Amend **HB 3554** by striking all below the enacting clause and substituting:

SECTION 1. Section 26.351, Water Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows:

(a) The commission shall use risk-based corrective action ~~[adopt rules establishing the requirements]~~ for taking corrective action in response to a release from an underground or aboveground storage tank. Correct action may include:

(1) site cleanup, including the removal, treatment, and disposal of surface and subsurface contamination;

(2) removal of underground or aboveground storage tanks;

(3) measures to halt a release in progress or to prevent future or threatened releases of regulated substances;

(4) well monitoring, taking of soil borings, and any other actions reasonably necessary to determine the extent of contamination caused by a release;

(5) providing alternate water supplies; and

(6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases of regulated substances from underground or aboveground storage tanks.

(f) The person performing corrective action under this section, if the release was reported to the commission on or before December 22, 1998, shall meet the following deadlines:

(1) a complete site assessment and risk assessment (including, but not limited to, risk-based criteria for establishing target concentrations), as determined by the executive director, must be received by the agency no later than September 1, 2002;

(2) a complete corrective action plan, as determined by the executive director and including, but not limited to, completion of pilot studies and recommendation of a cost-effective and technically appropriate remediation methodology, must be received by the agency no later than September 1, 2003. The person may, in lieu of this requirement, submit by this same deadline a demonstration that a corrective action plan is not required for the site in question under commission rules. Such demonstration must be to the executive director's satisfaction;

(3) for those sites found under Subdivision (2) to require a corrective action plan, that plan must be initiated and proceeding according to the requirements and deadlines in the approved plan no later than March 1, 2004;

(4) for sites which require either a corrective action plan or groundwater monitoring, a comprehensive and accurate annual status report concerning those activities must be submitted to the agency;

(5) for sites which require either a corrective action plan or groundwater monitoring, all deadlines set by the executive director concerning the corrective action plan or approved groundwater monitoring plan shall be met; and

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to the executive director no later than September 1, 2011 [~~2007~~]. The request must be complete, as judged by the executive director.

(i) The commission shall by rule define "risk-based corrective action" for purposes of this section.

SECTION 2. Sections 26.3573(d), (e), (r-1), and (s), Water Code, are amended to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program;

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter; ~~and~~

(3) subject to the conditions of Subsection (f) ~~(e)~~, expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility; and

(4) expenses associated with assuring compliance with the commission's applicable underground or aboveground storage tank administrative and technical requirements, including technical assistance and support, inspections, enforcement, and the provision of matching funds for grants.

(e) To consolidate appropriations, the commission may transfer from the petroleum storage tank remediation account to the waste management account an amount equal to the amounts authorized under Subsections [Subsection] (d) (1) and (4), subject to the requirements of those subsections [that subsection].

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 ~~[2007]~~. Not later than July 1, 2011 ~~[2007]~~, an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

(s) The petroleum storage tank remediation account may not be used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2012 ~~[2008]~~.

SECTION 3. Section 26.3574(b), Water Code, is amended to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) \$3.75 [~~\$12.50~~] for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2007 [2001, and the state fiscal year beginning September 1, 2002; and \$10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [2007];

(2) \$7.50 [~~\$25.00~~] for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2007 [2001, and the state fiscal year beginning September 1, 2002, and \$20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [2007];

(3) \$11.75 [~~\$37.50~~] for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2007 [2001, and the state fiscal year beginning September 1, 2002; and \$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [2007];

(4) \$15.00 [~~\$50.00~~] for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2007 [2001, and the state fiscal year beginning September 1, 2002; and \$40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [2007]; and

(5) \$7.50 [~~a \$25.00 fee~~] for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2007 [2001, and the state fiscal year beginning September 1, 2002, and \$20.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [2007].

SECTION 4. Sections 26.358(d), (f), and (g), Water Code, are amended to read as follows:

(d) The commission shall impose an annual facility fee on a facility that operates one or more underground or aboveground storage tanks if the fee charged under Section 26.3574 is discontinued. The commission may also impose reasonable interest and penalties for late payment of the fee as provided

by commission rule. The commission may establish a fee schedule that will generate an amount of money sufficient to fund the commission's budget for the regulatory program regarding underground and aboveground storage tanks authorized by this subchapter.

(f) The amount of an ~~[maximum]~~ annual fee that the commission may impose on a facility under Subsection (d) is equal to the amount set by the commission ~~[is \$25]~~ for each aboveground storage tank and ~~[\$50]~~ for each underground storage tank operated at the facility.

(g) The commission shall collect any ~~[the]~~ fees imposed under this section on dates set by commission rule. The period between collection dates may not exceed two years.

SECTION 5. Section 26.361, Water Code, is amended to read as follows:

Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM. Notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2012 ~~[2008]~~. On or after September 1, 2012 ~~[2008]~~, the commission may not use money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 6. Notwithstanding any other provision of this Act, Section 26.3573(r-1), Water Code, as amended by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 26.3573(r-1), Water Code, as amended by this Act, takes effect August 27, 2007.

### **HB 3630 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3630**, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of a parcel of land that is used for single-family residential purposes and is contiguous to a parcel of agricultural or open-space land owned by the same person.

Representative Van Arsdale moved to concur in the senate amendments to **HB 3630**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1860): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez

Tourelles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Farabee; Hochberg; Moreno; Peña.

### STATEMENT OF VOTE

When Record No. 1860 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 3630** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 23.51(2), Tax Code, is amended to read as follows:

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; ~~and~~ planting cover crops or leaving land idle for the purpose of participating in a ~~any~~ governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with ~~or~~ normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 26.06(b), Tax Code, as amended by Chapter 807, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 24-point or larger type. The notice must [±

[+] contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"The (name of the taxing unit) will hold two [a] public hearings [hearing] on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent. Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"The first public hearing will be held on (date and time) at (meeting place).

"The second public hearing will be held on (date and time) at (meeting place).

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)

"The average taxable value of a residence homestead in (name of taxing unit) last year was \$ (average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). Based on last year's tax rate of \$ (preceding year's adopted tax rate) per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$ (tax on average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"The average taxable value of a residence homestead in (name of taxing unit) this year is \$ (average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). If the governing body adopts the effective tax rate for this year of \$ (effective tax rate) per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ (tax on average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"If the governing body adopts the proposed tax rate of \$ (proposed tax rate) per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ (tax on the average taxable value of a residence in the taxing unit for the current year disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"Members of the public are encouraged to attend the hearings and express their views."]; and

~~[(2) contain the following information:~~

~~[(A) a section entitled "Comparison of Proposed Budget with Last Year's Budget," which must show the difference, expressed as a percent increase or decrease, as applicable, in the amount budgeted in the preceding fiscal year and the amount budgeted for the fiscal year that begins in the current tax year for each of the following:~~

~~[(i) maintenance and operations;~~

~~[(ii) debt service; and~~

~~[(iii) total expenditures;~~

~~[(B) a section entitled "Total Appraised Value and Total Taxable Value," which must show the total appraised value and the total taxable value of all property and the total appraised value and the total taxable value of new property taxable by the unit in the preceding tax year and the current tax year as calculated under Section 26.04;~~

~~[(C) the total amount of the outstanding and unpaid bonded indebtedness of the taxing unit;~~

~~[(D) the unit's adopted tax rate for the preceding tax year and the proposed tax rate, expressed as an amount per \$100;~~

~~[(E) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding tax year;~~

~~[(F) the average appraised value of a residence homestead in the taxing unit in the preceding tax year and in the current tax year; the unit's homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the unit in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(G) the amount of tax that would have been imposed by the unit in the preceding tax year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(H) the amount of tax that would be imposed by the unit in the current tax year on a residence homestead appraised at the average appraised value of a residence homestead in the current tax year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and~~

~~[(H) the difference between the amounts of tax calculated under Paragraphs (G) and (H), expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the unit on the average residence homestead in the unit in the current tax year if the proposed tax rate is adopted.]~~

(b) Section 26.06(d), Tax Code, is amended to read as follows:

(d) At the public hearings the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each hearing the governing body shall give notice of the meeting at which it will vote on the proposed tax rate and the notice shall be in the same form as prescribed by Subsections (b) and (c), except that it must state the following:

"NOTICE OF ~~[VOTE ON]~~ TAX REVENUE INCREASE ~~[RATE]~~

"The (name of the taxing unit) conducted public hearings on (date of first hearing) and (date of second hearing) on a proposal to increase the total tax revenues of the (name of the taxing unit) from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent ~~on (dates and times public hearings were conducted)].~~

"The total tax revenue proposed to be raised last year at last year's tax rate of (insert tax rate for the preceding year) for each \$100 of taxable value was (insert total amount of taxes imposed in the preceding year).

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each \$100 of taxable value, excluding tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by the difference between current total value and new property value).

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each \$100 of taxable value, including tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by current total value).

"The (governing body of the taxing unit) is scheduled to vote on the tax rate that will result in that tax increase at a public meeting to be held on (date of meeting) at (location of meeting, including mailing address) at (time of meeting ~~and time) at (meeting place)]."~~

(c) Section 26.06(b), Tax Code, as amended by Chapter 1368, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

### Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Section 25.19, Tax Code, is amended by adding Subsection (b-2) and amending Subsection (d) to read as follows:

(b-2) This subsection applies only to a notice of appraised value for residential real property that has not qualified for a residence homestead exemption in the current tax year. If the records of the appraisal district indicate that the address of the property is also the address of the owner of the property, in

addition to containing the applicable information required by Subsections (b), (b-1), and (f), the notice must contain the following statement in boldfaced 12-point type: "According to the records of the appraisal district, the residential real property described in this notice of appraised value is not currently being allowed a residence homestead exemption from ad valorem taxation. If the property is your home and you occupy it as your principal place of residence, the property may qualify for one or more residence homestead exemptions, which will reduce the amount of taxes imposed on the property. The form needed to apply for a residence homestead exemption is enclosed. Although the form may state that the deadline for filing an application for a residence homestead exemption is April 30, a late application for a residence homestead exemption will be accepted if filed before February 1, (insert year application must be filed). There is no fee or charge for filing an application or a late application for a residence homestead exemption." The notice must be accompanied by an application form for a residence homestead exemption.

(d) Failure to receive a ~~the~~ notice required by this section does not affect the validity of the appraisal of the property, the imposition of any tax on the basis of the appraisal, the existence of any tax lien, the deadline for filing an application for a residence homestead exemption, or any proceeding instituted to collect the tax.

#### **Senate Amendment No. 4 (Senate Floor Amendment No. 4)**

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 23.42, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), an ~~An~~ individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) the individual ~~he~~ is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is the individual's ~~his~~ primary occupation and primary source of income.

(a-1) On or after January 1, 2008, an individual is not entitled to have land designated for agricultural use if the land secures a home equity loan described by Section 50(a)(6), Article XVI, Texas Constitution.

#### **HB 3699 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3699**, A bill to be entitled An Act relating to the management of public school land and the investment of the permanent school fund.

Representative McCall moved to concur in the senate amendments to **HB 3699**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1861): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Bohac; Farabee; Flores; Laubenberg; McClendon; Moreno; Noriega; Otto.

### STATEMENT OF VOTE

When Record No. 1861 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

### Senate Committee Substitute

**CSHB 3699**, A bill to be entitled An Act relating to the management of public school land and the investment of the permanent school fund.

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

SECTION 1. Sections 51.011(a) and (a-1), Natural Resources Code, are amended to read as follows:

(a) Any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands,

shall be subject to the sole and exclusive management and control of the school land board and the commissioner under the provisions of this chapter and other applicable law.

(a-1) The board may acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, real estate investments, or other interests, including revenue received from those sources, that are [is] set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund.

SECTION 2. Section 51.121(b), Natural Resources Code, is amended to read as follows:

(b) Improvements [~~Commercial improvements~~] on land leased under Subsection (a) [~~of this section~~] shall be removed prior to the expiration of the lease unless the commissioner determines it to be in the best interest of the state that removal of the improvements not be required and includes a provision in the terms and conditions of the lease [~~a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial~~] that the improvements on the land shall become property of the state upon termination or expiration of the lease.

SECTION 3. The heading to Section 51.401, Natural Resources Code, is amended to read as follows:

Sec. 51.401 REAL ESTATE SPECIAL FUND ACCOUNT.

SECTION 4. Sections 51.401(a) and (b), Natural Resources Code, are amended to read as follows:

(a) The board may designate funds received from any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, [the sale of permanent school fund land under this chapter and the proceeds of future mineral leases and royalties generated from existing and future leases of permanent school fund mineral interests received under Chapters 52 and 53] for deposit in the real estate [~~a~~] special fund account of the permanent school fund in the State Treasury to be used by the board as provided by this subchapter.

(b) The real estate special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the real estate special fund account of the permanent school fund.

SECTION 5. Section 51.402, Natural Resources Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) The board may use the money designated under Section 51.401 for any of the following purposes:

- (1) to add to a tract of public school land to form a tract of sufficient size to be manageable;
- (2) to add contiguous land to public school land;

(3) to acquire, as public school land, interests in real property for biological, commercial, geological, cultural, or recreational purposes;

(4) to acquire mineral and royalty interests for the use and benefit of the permanent school fund;

(5) to protect, maintain, or enhance the value of public school land;

(6) to acquire interests in real estate;~~[-or]~~

(7) to pay reasonable fees for professional services related to a permanent school fund investment; or

(8) to acquire, sell, lease, trade, improve, maintain, protect, or use land, mineral and royalty interests, or real estate investments, an investment or interest in public infrastructure, or other interests, at such prices and under such terms and conditions the board determines to be in the best interest of the permanent school fund.

(b) Before using funds under Subsection (a), the board must determine, using the prudent investor standard, that the use of the funds for the intended purpose is authorized by Subsection (a) and in the best interest of the permanent school fund. A determination by the board on the use of funds under this section is conclusive unless the determination was made as a result of fraud or obvious error.

(b-1) The board may confer with one or more employees of the board or with a third party regarding an investment or potential investment in real estate, including the acquisition or potential acquisition of interests in real estate, to the extent permitted to the board of trustees of the Texas growth fund under Section 551.075, Government Code.

SECTION 6. Section 51.4021, Natural Resources Code, is amended to read as follows:

Sec. 51.4021. APPOINTMENT OF SPECIAL FUND MANAGERS, INVESTMENT CONSULTANTS, OR ADVISORS. (a) The board may appoint investment managers, consultants, or advisors to invest or assist the board in investing the money designated under Section 51.401 by contracting for professional investment management or investment advisory services with one or more organizations that are in the business of managing or advising on the management of real estate investments.

(b) To be eligible for appointment under this section, an investment manager, consultant, or advisor shall agree to abide by the [must be:

(1) registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform real estate investment services under the laws of more than one state.

[(c) In a contract under this section, the board shall specify any] policies, requirements, or restrictions, including ethical standards and disclosure policies and criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for real estate investments of the permanent

school fund. Money designated under Section 51.401 may not be invested in a real estate investment trust, as defined by Section 200.001, Business Organizations Code.

(c) ~~[(d)]~~ Compensation paid to an investment manager, consultant, or advisor by the board must be consistent with the compensation standards of the investment industry and compensation paid by similarly situated institutional investors.

(d) ~~[(e)]~~ Chapter 2263, Government Code, applies to investment managers, consultants, or advisors appointed under this section. The board by rule shall adopt standards of conduct for investment managers, consultants, or advisors appointed under this section as required by Section 2263.004, Government Code, and shall implement the disclosure requirements of Section 2263.005 of that code.

SECTION 7. Section 51.412(a), Natural Resources Code, is amended to read as follows:

(a) Not later than September 1 of each even-numbered year, the board shall submit to the legislature a report that, specifically and in detail, assesses the direct and indirect economic impact, as anticipated by the board, of the investment of funds designated under Section 51.401 for deposit in the real estate special fund account of the permanent school fund. The board may not disclose information under this section that is confidential under applicable state or federal law. The report must include the following information:

(1) the total amount of money designated by Section 51.401 for deposit in the real estate special fund account of the permanent school fund that the board intends to invest;

(2) the rate of return the board expects to attain on the investment;

(3) the amount of money the board expects to distribute to the available school fund or the State Board of Education for investment in the permanent school fund after making the investments;

(4) the distribution of the board's investments by county;

(5) the effect of the board's investments on the level of employment, personal income, and capital investment in the state; and

(6) any other information the board considers necessary to include in the report.

SECTION 8. Subchapter I, Chapter 51, Natural Resources Code, is amended by adding Section 51.413 to read as follows:

Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND. The board may, by a resolution adopted at a regular meeting, release from the real estate special fund account funds previously designated under Section 51.401 of this chapter or managed, used or encumbered under Section 51.402 or Section 51.4021 of this chapter to be deposited in the State Treasury to the credit of:

(a) the available school fund; or

(b) the State Board of Education for investment in the permanent school fund.

SECTION 9. Chapter 43, Education Code, is amended to add a new section 43.0051 that reads as follows:

§ 43.0051. TRANSFERS TO REAL ESTATE SPECIAL FUND ACCOUNT OF THE PERMANENT SCHOOL FUND. The State Board of Education may transfer funds from the portion of the permanent school fund managed by the State Board of Education to the real estate special fund account of the permanent school fund if the State Board of Education determines, using the standard of care set forth in subsection (f), Section 5, Article VII, Texas Constitution, that such transfer is in the best interest of the permanent school fund.

SECTION 10. Sections 51.401(c) and (d), Natural Resources Code, are repealed.

SECTION 11. This Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **HB 470 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 470**, A bill to be entitled An Act relating to the creation, operation, management, and programs of homestead preservation districts.

Representative Rodriguez moved to concur in the senate amendments to **HB 470**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1862): 139 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Farabee; Flores; McClendon; Moreno.

### STATEMENT OF VOTE

When Record No. 1862 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 470** (Senate Committee Printing) as follows:

(1) In SECTION 2 of the bill, strike amended Section 373A.003, Local Government Code (page 1, lines 35 through 43), and substitute:

Sec. 373A.003. APPLICABILITY OF CHAPTER. (a) This chapter applies ~~only~~ to a municipality with a population of more than 650,000 that is located in a uniform state service region with fewer than 550,000 occupied housing units as determined by the most recent United States decennial census.

(b) Subchapters A, B, C, and D apply to any municipality with a population of 1.8 million or more that is located predominantly in a county that has a total area of less than 1,000 square miles.

(2) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 373A.052, Local Government Code, is amended to read as follows:

Sec. 373A.052. ELIGIBILITY FOR DESIGNATION. (a) To be designated as a district within a municipality described by Section 373A.003(a) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 25,000 residents;
- (2) fewer than 8,000 households;
- (3) a number of owner-occupied households that does not exceed 50 percent of the total households in the area;
- (4) housing stock at least 55 percent of which was built at least 45 years ago;

- (5) an unemployment rate that is greater than 10 percent;
- (6) an overall poverty rate that is at least two times the poverty rate for the entire municipality; and

(7) in each census tract within the area, a median family income that is less than 60 percent of the median family income for the entire municipality.

(b) To be designated as a district within a municipality described by Section 373A.003(b) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 75,000 residents;

(2) a median family income that is less than \$30,000 according to the last decennial census; and

(3) an overall poverty rate that is at least two times the poverty rate for the entire municipality.

(c) An area that is designated as a district under this subchapter may retain its designation as a district regardless of whether the area continues to meet the eligibility criteria provided by this section, except that an area that does not elect to retain its designation as permitted by this subsection must meet all eligibility criteria to be considered for subsequent redesignation as a district.

### **HB 735 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 735**, A bill to be entitled An Act relating to the discontinuation of the Telecommunications Infrastructure Fund.

Representative Straus moved to concur in the senate amendments to **HB 735**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1863):  
138 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Farabee; Gonzales; Moreno; Noriega; Villarreal.

### STATEMENT OF VOTE

When Record No. 1863 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 735** (senate committee printing) by striking SECTIONS 14 and 15 (page 5, lines 35 through 66) and substituting:

SECTION 14. (a) The assessment imposed under Section 57.048, Utilities Code, for the calendar quarter ending in September 2008 is due on the last day of October 2008. The assessment imposed under that section may not be imposed after the end of the calendar quarter ending in September 2008.

(b) Section 57.048, Utilities Code, is continued in effect for the collection of the assessment due and for civil and criminal enforcement of the liability for that assessment.

(c) A telecommunications utility or commercial mobile service provider subject to Section 57.048, Utilities Code, may recover from the utility's customers through a monthly billing process the amount of the assessment imposed under that section as provided by Subsection (f) of that section, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2008.

#### **HB 1503 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1503**, A bill to be entitled An Act relating to allowing certain assistant district and county attorneys to carry weapons.

Representative Lucio moved to concur in the senate amendments to **HB 1503**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1864): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon;

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Castro; Farabee; Giddings; Merritt; Moreno; Ritter; Villarreal.

### STATEMENT OF VOTE

When Record No. 1864 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

### Senate Committee Substitute

**CSHB 1503**, A bill to be entitled An Act relating to allowing certain assistant district and county attorneys to carry weapons.

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

SECTION 1. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 years of service as a commissioned officer; and

(B) is issued by a state or local law enforcement agency; ~~or~~

(6) a district attorney, criminal district attorney, or county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; or

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

SECTION 2. This Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

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

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

Amend **HB 1503** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subdivision (4), Section 411.171, Government Code, is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged; ~~or~~

(B) pardoned under the authority of a state or federal official; or

(C) otherwise vacated, set aside, annulled, invalidated, discharged, voided, or sealed under any state or federal law.

SECTION \_\_\_\_\_. Section 411.172, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if [the offense], at the time it is committed, the offense [of a person's application for a license to carry a concealed handgun]:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b)(1) if, at the time of person's application for a license to carry a concealed handgun, the offense:

(1) is designated by a law of this state as a misdemeanor; or

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION \_\_\_\_\_. Section 46.04, Penal Code, is amended by amending Subsection (d) and adding Subsections (f) and (g) to read as follows:

(d) In this section:

(1) "Convicted" has the meaning assigned by Section 411.171, Government Code.

(2) "Family," [~~,"family,"~~] "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is designated by a law of this state as a misdemeanor; or

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

### **HB 1526 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1526**, A bill to be entitled An Act relating to incentives for and the use of alternative leak detection technologies for air contaminants.

Representative W. Smith moved to concur in the senate amendments to **HB 1526**.

**HB 1526 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BONNEN: Is it your intent that the TCEQ's supplemental leak detection technology program be consistent with federally approved programs and the State Implementation Plan?

REPRESENTATIVE W. SMITH: Yes.

**REMARKS ORDERED PRINTED**

Representative Bonnen moved to print remarks between Representative W. Smith and Representative Bonnen.

The motion prevailed.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1865): 126 Yeas, 7 Nays, 3 Present, not voting.

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

Nays — Allen; Bolton; Farrar; Hernandez; Herrero; Leibowitz; Lucio.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Burnam; Crownover; Driver; Farabee; Jones; Krusee; Merritt; Moreno; Veasey.

**STATEMENTS OF VOTE**

When Record No. 1865 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

I was shown voting yes on Record No. 1865. I intended to vote no.

Olivo

### Senate Committee Substitute

**CSHB 1526**, A bill to be entitled An Act relating to incentives for and the use of supplemental leak detection technologies for air contaminants.

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

SECTION 1. Chapter 382, Health and Safety Code, is amended by adding Subchapter I to read as follows:

#### SUBCHAPTER I. PROGRAMS TO ENCOURAGE THE USE OF INNOVATIVE TECHNOLOGIES

Sec. 382.401. SUPPLEMENTAL LEAK DETECTION TECHNOLOGY.

(a) In this section, "supplemental leak detection technology" means technology, including optical gas imaging technology, designed to detect leaks and emissions of air contaminants.

(b) The commission by rule shall establish a program that allows the owner or operator of a facility regulated under this chapter to use voluntarily as a supplemental detection method any leak detection technology that has been incorporated and adopted by the United States Environmental Protection Agency into a program for detecting leaks or emissions of air contaminants. The program must provide regulatory incentives to encourage voluntary use of the supplemental leak detection technology at a regulated facility that is capable of detecting leaks or emissions that may not be detected by methods or technology approvable under the commission's regulatory program for leak detection and repair in effect on the date the commission adopts the program. The incentives may include:

(1) on-site technical assistance; and

(2) to the extent consistent with federal requirements:

(A) inclusion of the facility's use of supplemental leak detection technology in the owner or operator's compliance history and compliance summaries;

(B) consideration of the implementation of supplemental leak detection technology in scheduling and conducting compliance inspections; and

(C) credits or offsets to the facility's emissions reduction requirements based on the emissions reductions achieved by voluntary use of supplemental leak detection technology.

(c) The owner or operator of a facility using a supplemental leak detection technology shall repair and record an emission or leak of an air contaminant from a component subject to the commission's regulatory program for leak detection and repair that is detected by the supplemental technology as provided by the commission's leak detection and repair rules in effect at the time of the detection. A repair to correct an emission or leak detected by the use of supplemental leak detection technology may be confirmed using the same technology.

(d) As part of the program of incentives adopted under Subsection (b), the commission shall:

(1) ensure that the owner or operator of a facility records and repairs, if possible and within a reasonable period, any leak or emission of an air contaminant at the facility that is detected by the voluntary use of supplemental leak detection technology from a component not subject to commission rules for leak detection and repair in effect on the date of detection;

(2) establish the reasonable period allowed for the repair of a component causing a leak or emission in a way that includes consideration of the size and complexity of the repair required;

(3) subject to commission reporting requirements only those components that are not repairable within the reasonable time frame established by the commission; and

(4) exempt from commission enforcement a leak or emission that is repaired within the reasonable period established by the commission.

(e) The commission may not take an enforcement action against an owner or operator of a facility participating in the program established under this section for a leak or an emission of an air contaminant that would otherwise be punishable as a violation of the law or of the terms of the permit under which the facility operates if the leak or emission was detected by using supplemental technology and it would not have been detected under the commission's regulatory program for leak detection and repair in effect on the date of the detection.

SECTION 2. Section 5.752(2), Water Code, is amended to read as follows:

(2) "Innovative program" means:

(A) a program developed by the commission under this subchapter, Chapter 26 or 27 of this code, or Chapter 361, 382, or 401, Health and Safety Code, that provides incentives to a person in return for benefits to the environment that exceed benefits that would result from compliance with applicable legal requirements under the commission's jurisdiction;

(B) the flexible permit program administered by the commission under Chapter 382, Health and Safety Code; ~~or~~

(C) the regulatory flexibility program administered by the commission under Section 5.758; or

(D) a program established under Section 382.401, Health and Safety Code, to encourage the use of supplemental technology for detecting leaks or emissions of air contaminants.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 1526** (Senate Committee Printing) in SECTION 1 of the bill, on page 2, line 11, by striking "The" and inserting the following:

To the extent consistent with federal requirements, the

#### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 1526** (Senate Committee Report) as follows:

(1) On page 1, line 10, strike "supplemental" and insert "alternative"

(2) On page 1, line 17, strike "SUPPLEMENTAL" and insert "ALTERNATIVE"

(3) On page 1, line 18, strike "supplemental" and insert "alternative"

(4) On page 1, line 28, strike "supplemental" and insert "alternative"

(5) On page 1, line 38, strike "supplemental" and insert "alternative"

(6) On page 1, line 41, strike "supplemental" and insert "alternative"

(7) On page 1, line 45, strike "supplemental" and insert "alternative"

(8) On page 1, line 47, strike "supplemental" and insert "alternative"

(9) On page 1, line 51, strike "supplemental" and insert "alternative"

(10) On page 1, line 54, strike "supplemental" and insert "alternative"

(11) On page 1, line 61, strike "supplemental" and insert "alternative"

(12) On page 2, line 11, strike "The" and insert "To the extent consistent with federal requirements, the"

(13) On page 2, line 17, strike "supplemental" and insert "alternative"

(14) On page 2, line 34, strike "supplemental" and insert "alternative"

### **HB 2566 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2566**, A bill to be entitled An Act relating to a document or instrument filed by an inmate with a court concerning real or personal property.

Representative Madden moved to concur in the senate amendments to **HB 2566**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1866): 139 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Farabee; Flores; McClendon; Moreno.

### STATEMENT OF VOTE

When Record No. 1866 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

### Senate Committee Substitute

**CSHB 2566**, A bill to be entitled An Act relating to a document or instrument filed by an inmate with a court concerning real or personal property.

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

SECTION 1. Section 12.001, Civil Practice and Remedies Code, is amended by adding Subdivisions (2-a), (2-b), (2-c), and (5) to read as follows:

(2-a) "Filing office" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2-b) "Financing statement" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2-c) "Inmate" means a person housed in a secure correctional facility.

(5) "Secure correctional facility" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2. Section 12.002, Civil Practice and Remedies Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) Except as provided by Subsection (a-2), a person may not file an abstract of a judgment or an instrument concerning real or personal property with a court or county clerk, or a financing statement with a filing office, if the person:

(1) is an inmate; or

(2) is not licensed or regulated under Title 11, Insurance Code, and is filing on behalf of another person who the person knows is an inmate.

(a-2) A person described by Subsection (a-1) may file an abstract, instrument, or financing statement described by that subsection if the document being filed includes a statement indicating that:

(1) the person filing the document is an inmate; or

(2) the person is filing the document on behalf of a person who is an inmate.

(b) A person who violates Subsection (a) or (a-1) is liable to each injured person for:

(1) the greater of:

(A) \$10,000; or

(B) the actual damages caused by the violation;

(2) court costs;

(3) reasonable attorney's fees; and

(4) exemplary damages in an amount determined by the court.

SECTION 3. Section 51.901, Government Code, is amended by amending Subsection (c) and adding Subsections (e) and (f) to read as follows:

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court or a purported judicial entity not expressly created or established under the constitution or the laws of this state or of the United States; or

(B) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A); ~~(e)~~

(2) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(A) is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) is not created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; or

(C) is not an equitable, constructive, or other lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States; or

(3) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and the document or instrument is filed by an inmate or on behalf of an inmate.

(e) A presumption under Subsection (c)(3) may be rebutted by providing the filing officer in the filing office in which the document is filed or recorded the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the financing statement as provided by Section 9.509, Business & Commerce Code.

(f) In this section:

(1) "Inmate" means a person housed in a secure correctional facility.

(2) "Secure correctional facility" has the meaning assigned by Section

1.07, Penal Code.

SECTION 4. Section 405.021, Government Code, as added by Chapter 407, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 405.021. FILING OR RECORDING OF FRAUDULENT DOCUMENT. (a) If the secretary of state believes in good faith that a document filed with the secretary of state to create a lien is fraudulent, the secretary of state shall:

(1) request the assistance of the attorney general to determine whether the document is fraudulent before filing or recording the document;

(2) request that the prospective filer provide to the secretary of state additional documentation supporting the existence of the lien, such as a contract or other document that contains the alleged debtor or obligor's signature; and

(3) forward any additional documentation received to the attorney general.

(b) For purposes of this section, a document or instrument is presumed to be fraudulent if the document or instrument is filed by an inmate or on behalf of an inmate.

(c) A presumption under Subsection (b) may be rebutted by providing the secretary of state the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the instrument as provided by Section 9.509, Business & Commerce Code.

(d) In this section:

(1) "Inmate" means a person housed in a secure correctional facility.

(2) "Secure correctional facility" has the meaning assigned by Section 1.07, Penal Code.

SECTION 5. The change in law made by this Act applies only to a document or instrument presented for recording on or after the effective date of this Act. A document or instrument presented for recording before the effective date of this Act is covered by the law in effect when the document or instrument was presented for recording, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2007.

### **HB 2884 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2884**, A bill to be entitled An Act relating to juvenile delinquency; providing penalties.

Representative Dutton moved to concur in the senate amendments to **HB 2884**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1867): 137 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez

Tourelles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Farabee; Hernandez; Moreno; Mowery; Otto.

### STATEMENT OF VOTE

When Record No. 1867 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 2884** (senate committee printing) by striking SECTIONS 8 and 9 of the bill (page 5, line 51, through page 6, line 62) and renumbering the subsequent SECTIONS of the bill accordingly.

#### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 2884** (senate committee printing) in SECTION 12 of the bill, in amended Section 54.04(d), Family Code (page 8, lines 38 through 47), by striking amended Subdivision (2) and substituting the following:

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (s) or (t) are met, of the grade of misdemeanor, and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Youth Commission without a determinate sentence;

#### **Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 2884** (senate committee printing) as follows:

(1) In SECTION 9, in added Section 51.125(d), Family Code (page 6, line 58), strike "51.12(i)" and substitute "Subsection (c)".

(2) In SECTION 21, strike added Section 58.405, Family Code (page 12, lines 40-43), and substitute:

Sec. 58.405. AUTHORITY CUMULATIVE. The authority granted by this subchapter is cumulative of all other authority granted by this chapter to a county, the commission, or a juvenile justice agency and nothing in this subchapter limits

the authority of a county, the commission, or a juvenile justice agency under this chapter to create an information system or to share information related to a juvenile.

(3) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 58.007(c), Family Code, is amended to read as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters ~~[Subchapter]~~ B, D, and E.

SECTION \_\_\_\_\_. Article 45.054, Code of Criminal Procedure, is amended by adding Subsection (a-2) to read as follows:

(a-2) An order under Subsection (a) may not require a student to attend a juvenile justice alternative education program.

#### **Senate Amendment No. 4 (Senate Floor Amendment No. 4)**

Amend **HB 2884** (senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 58.302, Family Code, is amended to read as follows:

Sec. 58.302. PURPOSES OF SYSTEM. The purposes of a local juvenile justice information system are to:

(1) provide accurate information at the county or regional level relating to children who come into contact with the juvenile justice system;

(2) assist in the development and delivery of services to children in the juvenile justice system;

(3) assist in the development and delivery of services to children:

(A) who school officials have reasonable cause to believe have committed an offense for which a report is required under Section 37.015, Education Code; or

(B) who have been expelled, the expulsion of which school officials are required to report under Section 52.041;

(4) provide for an efficient transmission of juvenile records from justice and municipal courts to county juvenile probation departments and the juvenile court and from county juvenile probation departments and juvenile court to the state juvenile justice information system created by Subchapter B;

(5) provide efficient computerized case management resources to juvenile courts, prosecutors, court clerks, county juvenile probation departments, and partner agencies authorized by this subchapter;

(6) provide a directory of services available to children to the partner agencies to facilitate the delivery of services to children;

(7) provide an efficient means for municipal and justice courts to report filing of charges, adjudications, and dispositions of juveniles to the juvenile court as required by Section 51.08; and

(8) provide a method for agencies to fulfill their duties under Section 58.108, including the electronic transmission of information required to be sent to the Department of Public Safety by Section 58.110(f).

SECTION \_\_\_\_\_. Section 58.303(b), Family Code, is amended to read as follows:

(b) A local juvenile justice information system may contain the following components:

(1) case management resources for juvenile courts, court clerks, prosecuting attorneys, and county juvenile probation departments;

(2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;

(3) service provider directories and indexes of agencies providing services to children;

(4) victim-witness notices required under Chapter 57;

(5) electronic filing of complaints or petitions, court orders, and other documents filed with the court, including documents containing electronic signatures;

(6) electronic offense and intake processing;

(7) case docket management and calendaring;

(8) communications by email or other electronic communications between partner agencies;

(9) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by Section 51.08;

(10) reporting to schools under Article 15.27, Code of Criminal Procedure, by law enforcement agencies, prosecuting attorneys, and juvenile courts;

(11) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; and

(12) warrant management and confirmation capabilities.

SECTION \_\_\_\_\_. Section 58.304(b), Family Code, is amended to read as follows:

(b) To the extent possible and subject to Subsections (a) and (d), the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

(1) the juvenile's name, including other names by which the juvenile is known;

(2) the juvenile's date and place of birth;

(3) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(4) the juvenile's state identification number and other identifying information;

(5) the juvenile's fingerprints and photograph;

(6) the juvenile's last known residential address, including the census tract number designation for the address;

(7) the name, address, and phone number of the juvenile's parent, guardian, or custodian;

(8) the name and identifying number of the agency that took into custody or detained the juvenile;

(9) each date of custody or detention;

(10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;

(11) the name and identifying number of the juvenile intake agency or juvenile probation office;

(12) each disposition by the juvenile intake agency or juvenile probation office;

(13) the date of disposition by the juvenile intake agency or juvenile probation office;

(14) the name and identifying number of the prosecutor's office;

(15) each disposition by the prosecutor;

(16) the date of disposition by the prosecutor;

(17) the name and identifying number of the court;

(18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;

(19) the date of disposition by the court;

(20) any commitment or release under supervision by the Texas Youth Commission, including the date of the commitment or release; ~~and~~

(21) information concerning each appellate proceeding; and

(22) electronic copies of all documents filed with the court.

SECTION \_\_\_\_\_. Section 58.305(a), Family Code, is amended to read as follows:

(a) A local juvenile justice information system shall to the extent possible include the following partner agencies within that county:

(1) the juvenile court and court clerk;

(2) justice of the peace and municipal courts;

(3) the county juvenile probation department;

(4) the prosecuting attorneys who prosecute juvenile cases in juvenile court, municipal court, or justice court;

(5) law enforcement agencies;

(6) each public school district in the county;

(7) governmental service providers approved by the county juvenile board; and

(8) governmental placement facilities approved by the county juvenile board.

SECTION \_\_\_\_\_. Section 58.306(g), Family Code, is amended to read as follows:

(g) Level 3 Access is by:

- (1) the juvenile court and court clerk;
- (2) the prosecuting attorney;
- (3) the county juvenile probation department;
- (4) law enforcement agencies;
- (5) governmental service providers that are partner agencies; and
- (6) governmental placement facilities that are partner agencies.

SECTION \_\_\_\_\_. Sections 58.307(a) and (e), Family Code, are amended to read as follows:

(a) Information that is part of a local juvenile justice information system is not public information and may not be released to the public, except as authorized by law.

(e) Information in a local juvenile justice information system, including electronic signature systems, shall be protected from unauthorized access by a system of access security and any access to information in a local juvenile information system performed by browser software shall be at the level of at least 128-bit encryption. A juvenile board or a regional juvenile board committee shall require all partner agencies to maintain security and restrict access in accordance with the requirements of this title.

SECTION \_\_\_\_\_. This Act applies to information and documents relating to juvenile court cases without regard to whether the conduct that is the basis of the case occurred before, on, or after the effective date of this Act.

**HB 3154 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3154**, A bill to be entitled An Act relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.

Representative Laubenberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3154**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3154**: Laubenberg, chair; Coleman, Taylor, Zerwas, and Thompson.

**HB 3838 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3838**, A bill to be entitled An Act relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality.

Representative Gonzalez Toureilles moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3838**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3838**: Gonzalez Toureilles, chair; Hardcastle, Escobar, Chisum, and Gonzales.

**HB 3107 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3107**, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

Representative Isett moved to concur in the senate amendments to **HB 3107**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1868): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter;

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chisum; Farabee; Moreno; Mowery; Oliveira.

### STATEMENT OF VOTE

When Record No. 1868 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 3107** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 80th Legislature, Regular Session, 2007, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 80th Legislature, Regular Session, 2007, that becomes law are abolished on the later of August 27, 2007, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Section 2 of this Act does not apply to:

(1) statutory dedications, funds, and accounts that were enacted before the 80th Legislature convened to comply with requirements of state constitutional or federal law;

(2) dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision;

(3) increases in fees or in other revenue dedicated as described by this section; or

(4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on the later of August 27, 2007, or the date the Act creating or re-creating the account takes effect, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created or re-created by an Act of the 80th Legislature, Regular Session, 2007, that becomes law:

- (1) the transportation reinvestment fund created by **SB 1266**, **HB 3722**, or similar legislation;
- (2) the cancer prevention and research fund created by **HB 14** or similar legislation; and
- (3) the nursing home quality assurance fee account created by **HB 3778** or similar legislation.

SECTION 5. FUNDS TO BECOME ACCOUNTS. Effective on the later of August 27, 2007, or the date the Act creating or re-creating the fund takes effect, a fund in the state treasury or fund otherwise with the comptroller, if listed in this section, is re-created as an account in the general revenue fund, to the extent allowed by the Texas Constitution, and the account and the revenue deposited to the credit of the account are exempt from Section 2 of this Act, if created or re-created by an Act of, or constitutional amendment proposed by, the 80th Legislature, Regular Session, 2007, that becomes law or is approved by the voters, as applicable.

SECTION 6. REVENUE DEDICATION. Effective on the later of August 27, 2007, or the date the Act dedicating or rededicating the revenue takes effect, the following dedications or rededications of revenue collected by a state agency for a particular purpose are exempt from Section 2 of this Act, if dedicated or rededicated by an Act of the 80th Legislature, Regular Session, 2007, that becomes law:

- (1) all dedications or rededications to the state highway fund;
- (2) all dedications or rededications of revenue collected by the Parks and Wildlife Department;
- (3) all dedications or rededications of revenue to the Texas Department of Insurance operating account;
- (4) all dedications or rededications of revenue made by **HB 3168** and **HB 1673** or similar legislation; and
- (5) all dedications or rededications to General Revenue Account No. 19–Vital Statistics that are made by **SB 47**, **HB 1377**, or similar legislation.

SECTION 7. FEDERAL FUNDS. Section 2 of this Act does not apply to funds created pursuant to an Act of the 80th Legislature, Regular Session, 2007, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 8. TRUST FUNDS. (a) Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 80th Legislature, Regular Session, 2007, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

(b) Notwithstanding Subsection (a) of this section, the following trust funds if created under an Act of the 80th Legislature, Regular Session, 2007, that becomes law shall be held outside the state treasury, regardless of the comptroller's approval:

(1) the Texas tomorrow fund II prepaid tuition unit undergraduate education program fund created by **HB 3900** or similar legislation; and

(2) the Texas health opportunity pool trust fund created by **SB 10** or similar legislation.

SECTION 9. BOND FUNDS. Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 80th Legislature, Regular Session, 2007, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 10. CONSTITUTIONAL FUNDS. Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

SECTION 11. SEPARATE FUNDS IN THE TREASURY. Effective September 1, 2007, if the fund is listed in this section, a fund in the state treasury and the revenue deposited to the credit of the fund is exempt from Section 2 of this Act and is created as a separate fund in the state treasury, if created by an Act of the 80th Legislature, Regular Session, 2007, that becomes law.

SECTION 12. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Effective September 1, 2007, Sections 403.095(b), (d), and (e), Government Code, are amended to read as follows:

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, 2009 [2007], are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 80th [79th] Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 80th [79th] Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) This section expires on September 1, 2009 [~~2007~~].

SECTION 13. EFFECT OF ACT. (a) This Act prevails over any other Act of the 80th Legislature, Regular Session, 2007, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Revenues that, under the terms of another Act of the 80th Legislature, Regular Session, 2007, would be deposited to the credit of a special account or fund shall be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 14. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** as follows:

(1) In Section 4 of the bill (page 2, between lines 11 and 12), insert a new Subdivision (1) to read as follows and renumber the existing Subdivision (1) and subsequent subdivisions accordingly:

(1) the fire prevention and public safety account created by **HB 2935** or similar legislation;

(2) In Section 6 of the bill (page 3, between lines 3 and 4), insert a new Subdivision (1) to read as follows and renumber the existing Subdivision (1) and subsequent subdivisions accordingly:

(1) all dedications or rededications made by **HB 2935** or similar legislation;

### **Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** as follows:

(1)(a) In SECTION 4 of the bill (page 2, line 11), following the colon, insert:

(1) the premium payment assistance account created by **HB 1751** or similar legislation;

(2) the Texas health opportunity pool created by **SB 10**, or similar legislation;

(1)(b) Renumber remaining subdivisions accordingly.

(2)(a) In SECTION 6 of the bill (page 3, line 3), following the colon, insert:

(1) all dedications or rededications to the sexual assault program fund, the premium payment assistance account, or the Texas health opportunity pool made by **HB 1751** or similar legislation;

(2) Renumber the subdivisions of the bill accordingly.

#### **Senate Amendment No. 4 (Senate Floor Amendment No. 4)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** (senate committee report) as follows:

(1) In Section 4 of the bill (page 2, between lines 11 and 12), insert a new Subdivision (1) to read as follows and renumber the existing subdivisions accordingly:

(1) the regional trauma account created by **SB 125** or similar legislation;

(2) In Section 6 of the bill (page 3, between lines 3 and 4), insert new Subdivisions (1) and (2) to read as follows and renumber the existing subdivisions accordingly:

(1) all dedications or rededications of revenue from civil or administrative penalties made by **SB 125** or similar legislation;

(2) the dedication or rededication of fee revenue made by **HB 481** or similar legislation;

#### **Senate Amendment No. 5 (Senate Floor Amendment No. 5)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. CONTINGENT DEDICATION. Contingent on **SB 1562** or similar legislation concerning animal control officer training being enacted by the 80th Legislature, Regular Session, 2007, and becoming law, a fee collected by the Department of State Health Services to cover the cost of arranging and conducting an animal control course may be appropriated only to the Department of State Health Services for the purpose of paying the costs of arranging and conducting the course. Section 2 of this Act does not apply to the dedication of revenue made by this section.

#### **Senate Amendment No. 6 (Senate Floor Amendment No. 6)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** by adding a new SECTION, numbered appropriately, and by renumbering any subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. ACCOUNTS IN JUDICIAL FUND AND RELATED DEDICATIONS OF REVENUE. Section 2 of this Act does not apply to:

(1) the supreme court support account created in the judicial fund by **SB 1182** or similar legislation; or

(2) dedications of fee revenue deposited to the credit of the account described by Subdivision (1) of this section in accordance with the provisions of **SB 1182** or similar legislation.

**Senate Amendment No. 7 (Senate Floor Amendment No. 7)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** by inserting the following SECTION in the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . EFFECT OF SECTION 2 OF THIS ACT ON CERTAIN FUNDS OF TEXAS WINDSTORM INSURANCE ASSOCIATION. Section 2 of this Act does not apply to any fund, account, or dedication of revenue that is created or re-created by **HB 2960**, Acts of the 80th Legislature, Regular Session, 2007, or to which **HB 2960** refers, including:

- (1) the catastrophe reserve trust fund created under Subchapter J, Chapter 2210, Insurance Code;
- (2) the dedicated trust fund created under Section 2210.607, Insurance Code, as added by **HB 2960**; and
- (3) premium surcharges collected by the Texas Windstorm Insurance Association under Section 2210.058, Insurance Code, as amended by **HB 2960**.

**Senate Amendment No. 8 (Senate Floor Amendment No. 8)**

Amend Floor Amendment No. 1 (Ogden) to **HB 3107** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_ . PERMANENT FUND FOR VETERANS' ASSISTANCE. (a) Section 403.108, Government Code, is transferred to Subchapter A, Chapter 434, Government Code, redesignated as Section 434.017, and amended to read as follows:

Sec. 434.017 [~~403.108~~]. [~~PERMANENT~~] FUND FOR VETERANS'S ASSISTANCE. (a) The [~~permanent~~] fund for veterans' assistance is a special fund in the state treasury outside the general revenue fund. The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the [~~available~~] earnings of the fund [~~determined in accordance with Section 403.1063~~].

(b) Except as provided by Subsections (c) and (e), money in the fund may not be appropriated for any purpose.

(c) Money in [~~The available earnings of~~] the fund may be appropriated to the Texas Veterans Commission to:

- (1) enhance or improve veterans' assistance programs, including veterans' representation and counseling; and
- (2) make grants to local communities to address veterans' needs.

(d) The Texas Veterans Commission may adopt rules governing the award of grants by the commission under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as other money in [~~the available earnings of~~] the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Sections 403.095 and 404.071 do not apply to the fund.

(b) Section 403.1068(a), Government Code, is amended to read as follows:

(a) This section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, 403.1065, and 403.1066, ~~and 403.108~~.

(c) Effective August 27, 2007, the fund for veterans' assistance is re-created as a special fund in the state treasury outside the general revenue fund, and the fund and the revenue deposited to the credit of the fund are exempt from Section 2 of this Act.

**HB 3693 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3693**, A bill to be entitled An Act relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

Representative Straus moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3693**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3693**: Straus, chair; Talton, P. King, Anchia, and Crabb.

**HB 12 - HOUSE DISCHARGES CONFEREES  
HOUSE APPOINTS NEW CONFEREES**

On motion of Representative Hilderbran, the house discharged the conferees on **HB 12**.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 12**: Hilderbran, chair; Flores, Gattis, D. Howard, and O'Day.

**HB 860 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 860**, A bill to be entitled An Act relating to management, investment, and expenditure of institutional funds and adoption of the Uniform Prudent Management of Institutional Funds Act.

Representative Paxton moved to concur in the senate amendments to **HB 860**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1869):  
132 Yeas, 0 Nays, 3 Present, not voting.

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

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

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Driver; Farabee; Flores; Krusee; McClendon; Moreno; Mowery; Oliveira; Otto; Villarreal.

### STATEMENT OF VOTE

When Record No. 1869 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

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

Amend **HB 860** as follows:

(1) on page 7, line 19 strike the word "The" and insert in lieu thereof "Except as provided in Subsection (f),"

(2) add a new subsection (f) on page 8, after line 25 to read as follows:

(f) This subsection applies only to a university system, as defined by Section 61.003(10), education code. The appropriation for expenditure in any year of an amount greater than nine percent of the fair market value of an endowment fund with an aggregate value of \$450 million or more, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:

(1) apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument; or

(2) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to nine percent of the fair market value of the endowment fund.

(3) renumber subsequent subsections accordingly.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 1)**

Amend **HB 860** by adding the following appropriately numbered sections:

SECTION \_\_\_\_\_. Section 404.024, Government Code, is amended by amending Subsections (b) and (1) and adding Subsections (m) and (n) to read as follows:

(b) State funds not deposited in state depositories shall be invested by the comptroller in:

(1) direct security repurchase agreements;

(2) reverse security repurchase agreements;

(3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;

(4) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United State government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable short-term obligations are rated in [that has received] the highest short-term [credit] rating category, within which there may be subcategories or gradations indicating relative standing, including such subcategories or gradations as "rating category" or "rated," by a nationally recognized statistical rating organization, as defined by Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 by the Securities and Exchange Commission [investment rating firm];

(6) commercial paper that:

(A) does not exceed 270 days to maturity; and

(B) except as provided by Subsection (i), is issued by an entity whose other comparable short-term obligations are rated in [has received] the highest short-term [credit] rating category by a nationally recognized statistical rating organization [investment rating firm];

(7) contracts written by the treasury in which the treasury grants the purchaser the right to purchase securities in the treasury's marketable securities portfolio at a specified price over a specified period and for which the treasury is paid a fee and specifically prohibits naked-option or uncovered option trading;

(8) direct obligations of or obligations guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation that have received the highest long-term [credit] rating categories for debt obligations by a nationally recognized statistical rating organization [investment rating firm];

(9) bonds issued, assumed, or guaranteed by the State of Israel;

(10) obligations of a state or an agency, county, city, or other political subdivision of a state;

(11) mutual funds secured by obligations that are described by Subdivisions (1) through (6) or by obligations consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated by the Securities and Exchange Commission, including pooled funds:

(A) established by the Texas Treasury Safekeeping Trust Company;

(B) operated like a mutual fund; and

(C) with portfolios consisting only of dollar-denominated securities;

~~[and]~~

(12) foreign currency for the sole purpose of facilitating investment by state agencies that have the authority to invest in foreign securities;

(13) asset-backed securities, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), that are rated at least A or its equivalent by a nationally recognized statistical rating organization and that have a weighted-average maturity of five years or less; and

(14) corporate debt obligations that are rated at least A or its equivalent by a nationally recognized statistical rating organization and mature in five years or less from the date on which the obligations were "acquired," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7).

(1) The comptroller may lend securities under procedures established by the comptroller. The procedures must be consistent with industry practice and must include a requirement to fully secure the loan with cash, obligations described by Subsection (b)(1)-(6), or a combination of cash and the described obligations. Notwithstanding any law to the contrary, cash may be reinvested in the items permitted under Subsection (b) or mutual funds, as defined by the Securities and Exchange Commission in Rule 2a-7(17 C.F.R. Section 270.2a-7) [In this subsection, "obligation" means an item described by Subsections (b) (1) (6)].

(m) In entering into a direct security repurchase agreement or a reverse security repurchase agreement, the comptroller may agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Cash held by the state under this subsection is not a deposit of state or public funds for purposes of any statute, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

(n) Notwithstanding any other law to the contrary, any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company may invest the funds it receives in investments that are "eligible securities," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Section 270.2a-7), and meets the diversification requirements of Rule 2a-7.

**HB 3200 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3200**, A bill to be entitled An Act relating to funding for community supervision and corrections departments.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3200**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3200**: Madden, chair; Haggerty, Hochberg, McReynolds, and Zedler.

(Speaker in the chair)

**HB 3382 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3382**, A bill to be entitled An Act relating to providing certain computerized instructional material for blind and visually impaired students at public institutions of higher education.

Representative Naishtat moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3382**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3382**: Naishtat, chair; McCall, Leibowitz, Berman, and D. Howard.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE DUNNAM: At what point is **HB 1** no longer subject to change? It is my understanding that conferees are going back and making potential changes. At what point can members look at the budget and know that it's not going to change, and it'll just be an up or down vote?

SPEAKER: I assume as soon as they've got it voted out and got it printed it'll be available to members.

DUNNAM: Once it is printed in our boxes, it is no longer going subject to change until after the house votes it up or down?

SPEAKER: I assume that's right, Mr. Dunnam—I don't know, if you've got a specific question.

DUNNAM: I don't, I just, members are just wondering when the budget is going to be final and if they have stuff in the budget, it's in the budget and if they don't have stuff in the budget, it's not in the budget. At what point is all that final?

SPEAKER: Well, the last day to adopt the conference committee reports is Sunday.

DUNNAM: Okay. Parliamentary inquiry, Mr. Speaker.

SPEAKER: State your inquiry.

DUNNAM: Is a question of privilege, when is that in order?

SPEAKER: I'm sorry, Mr. Dunnam?

DUNNAM: When is a question of privilege in order, when can a member make a question of privilege? Is there any limitation on when a member can make a question of privilege?

SPEAKER: You can make it at any time, you know, at any time if you're recognized for it.

DUNNAM: Is a question of privilege something that is mandatory for the chair to recognize that member on?

SPEAKER: No.

DUNNAM: And where's the chair's authority on that, that a question of privilege, that it requires recognition?

SPEAKER: Under Rule 5, Section 24, the chair has the absolute authority to recognize or to not recognize.

DUNNAM: Even on a question of privilege?

SPEAKER: Yes, that's correct.

DUNNAM: So, on personal privilege it's the same? When members want to give a personal privilege, is that something that the chair has to recognize?

SPEAKER: The chair can recognize.

DUNNAM: And if a member makes a motion under Rule 5, Section 35, is it the chair's position that those require recognition from the chair?

SPEAKER: Yes.

DUNNAM: Is the chair's failure to recognize such a motion subject to appeal?

SPEAKER: No.

DUNNAM: Does the chair have any other authority other than Rule 5, Section 24, for that?

SPEAKER: Let me, let me check on that, Mr. Dunnam. Not at this time.

DUNNAM: Does a question of privilege have precedent over all other pending questions, other than a motion to adjourn?

SPEAKER: That's correct.

DUNNAM: Do I need to ask Mr. Dutton?

SPEAKER: You can ask anyone you like, Mr. Dunnam.

DUNNAM: Well, I'd like to ask the man whose going to call the answer. Is a motion to vacate the chair a question of privilege?

SPEAKER: I don't believe there's such a motion in the rules.

DUNNAM: Is that a no?

SPEAKER: That's what it is, Mr. Dunnam.

### **HB 4053 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4053**, A bill to be entitled An Act relating to the creation of the Galveston Grand Beach Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

Representative Eiland moved to concur in the senate amendments to **HB 4053**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1870): 140 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Crossover; Farabee; Moreno; Olivo.

### STATEMENT OF VOTE

When Record No. 1870 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

#### Senate Committee Substitute

**CSHB 4053**, A bill to be entitled An Act relating to the creation of the Galveston Grand Beach Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. GALVESTON GRAND BEACH MANAGEMENT DISTRICT. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3856 to read as follows:

#### CHAPTER 3856. GALVESTON GRAND BEACH MANAGEMENT DISTRICT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3856.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "District" means the Galveston Grand Beach Management District.

Sec. 3856.002. GALVESTON GRAND BEACH MANAGEMENT DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3856.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the City of Galveston, Galveston County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the City of Galveston or Galveston County from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3856.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3856.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

(1) Section 3856.108;

(2) Subchapter J, Chapter 49, Water Code; or

(3) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3856.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created by a municipality under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by a municipality under Chapter 312, Tax Code; or

(3) an enterprise zone created by a municipality under Chapter 2303, Government Code.

Sec. 3856.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3856.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3856.009-3856.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3856.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of nine voting directors appointed under Section 3856.052 and nonvoting directors as provided by Section 3856.053.

(b) Voting directors serve staggered terms of four years, with four or five directors' terms expiring June 1 of each odd-numbered year.

(c) The board by resolution may increase or decrease the number of directors on the board if the board finds that it is in the best interest of the district. The board may not consist of fewer than seven or more than 13 directors.

Sec. 3856.052. APPOINTMENT OF DIRECTORS. The board shall nominate a slate of persons to serve on the succeeding board as voting directors. The members of the governing body of the City of Galveston shall appoint as voting directors the slate of persons nominated by the board.

Sec. 3856.053. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting directors:

(1) the directors of the following departments of the City of Galveston or a person designated by that director:

(A) parks and recreation;

(B) planning and zoning; and

(C) public works; and

(2) the city manager of the City of Galveston or a person designated by the city manager.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to those performed by the abolished entity.

(c) Nonvoting directors are not counted for the purposes of establishing a quorum of the board.

Sec. 3856.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided by this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit

declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity;

or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that same public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, Local Government Code.

Sec. 3856.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Richard G. Anderson</u>
<u>2</u>	<u>Arnold C. Tauch</u>
<u>3</u>	<u>Tofigh Shirazi</u>
<u>4</u>	<u>Jim Carpenter</u>
<u>5</u>	<u>Frank Schaefer</u>
<u>6</u>	<u>Donna Coleman</u>
<u>7</u>	<u>Martha Wallace</u>
<u>8</u>	<u>Juan Pena</u>
<u>9</u>	<u>Chad Murphy</u>

(b) Of the initial voting directors, the terms of directors appointed for positions 1 through 5 expire June 1, 2009, and the terms of directors appointed for positions 6 through 9 expire June 1, 2011.

(c) Section 3856.052 does not apply to this section.

(d) This section expires September 1, 2012.

[Sections 3856.056-3856.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3856.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, and maintain projects described by that section;

(2) a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district;

(3) a road utility district under Chapter 441, Transportation Code;

(4) a navigation district under Subchapters E and M, Chapter 60, Water Code; and

(5) a navigation district under Section 61.116, Water Code.

Sec. 3856.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3856.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3856.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with Galveston County or the City of Galveston to provide law enforcement services in the district for a fee.

Sec. 3856.105. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

Sec. 3856.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

(a) The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with the furtherance of a district purpose.

(b) An expenditure of public money for membership in the organization is considered to further a district purpose and to be for a public purpose.

Sec. 3856.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(b) For purposes of this section, the district has all of the powers of a municipality under Chapter 380, Local Government Code.

Sec. 3856.108. ANNEXATION. In addition to the authority to annex territory under Subchapter C, Chapter 375, Local Government Code, the district may annex territory in a reinvestment zone created by the City of Galveston under Chapter 311, Tax Code, if the city's governing body consents to the annexation.

Sec. 3856.109. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

[Sections 3856.110-3856.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3856.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3856.152. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax or issues bonds payable from ad valorem taxes.

(b) The board may include more than one purpose in a single proposition at an election.

(c) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3856.153. AD VALOREM TAX. (a) If authorized at an election held in accordance with Section 3856.152, the district may impose an annual ad valorem tax on taxable property in the district to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the tax rate.

Sec. 3856.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) The board may not impose an assessment on a parcel of real property with a taxable value of less than \$50,000 at the time of the assessment, according to the most recent certified tax appraisal roll for Galveston County, unless the owner of that parcel agrees in writing to pay the assessment.

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

- (1) are a first and prior lien against the property assessed;
- (2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and
- (3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

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

(e) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3856.155. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Galveston County; or

(2) at least 25 persons who own real property in the district, if more than 25 persons own real property in the district according to the most recent certified tax appraisal roll for Galveston County.

Sec. 3856.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

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

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

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

Sec. 3856.157. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3856.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

[Sections 3856.159-3856.200 reserved for expansion]

#### SUBCHAPTER E. DISSOLUTION

Sec. 3856.201. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may vote to dissolve a district that has debt. If the vote is in favor of dissolution, the district shall remain in existence solely for the limited purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

(b) Section 375.264, Local Government Code, does not apply to the district.

SECTION 2. BOUNDARIES. As of the effective date of this Act, the Galveston Grand Beach Management District encompasses approximately 456 acres and includes all territory contained in the following described area:

BEGINNING at the intersection of the Northeasterly corner of the Southerly right-of-way line of East Seawall Blvd. and the Northerly right-of-way line of Apffel Park Dr.;

THENCE proceeding in a Northeasterly direction along the Southeasterly right-of-way line of East Seawall Blvd. to a point representing the Westerly projection of a certain 5.9620 acre shown in the deed records as the West Part of Reserve C (3-2) Grand Beach;

THENCE in an Easterly direction along said projection to a point at the intersection of the Westerly right-of-way line of Apffel Park Dr.;

THENCE in an Northeasterly direction along said right-of-way to the Northwesterly corner of a certain 33.5829 acre tract shown in the deed records as Reserve F Grand Beach;

THENCE in an Easterly direction along the Northerly property line of said tract to the intersection of the Westerly right-of-way line of Apffel Park Dr.;

THENCE in an Easterly direction along the Northern right-of-way line of Apffel Park Dr. to a point representing the Easterly projection of said right-of-way and its intersection with the Northeasterly projection of the property line of a certain 20 acre tract shown in the deed records as Reserve G (7-2) Grand Beach;

THENCE in a Southwesterly direction to a point at the Southwesterly corner of a certain 24.6649 acre tract shown in the deed records as Part of Reserve I (9-1) Grand Beach;

THENCE in a Northwesterly direction to a point at the intersection of Southerly right of way line of East Seawall Blvd.;

THENCE in a North Easterly direction along the Southerly right-of-way line of East Seawall Blvd. to the POINT OF BEGINNING.

PROVIDED; HOWEVER, that such boundaries shall specifically exclude those properties currently known as the Islander East Condominiums and the Galvestonian unless such property is later annexed pursuant to the provisions of this Act.

SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 4113 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4113**, A bill to be entitled An Act relating to the Buffalo Bayou Management District.

Representative Cohen moved to concur in the senate amendments to **HB 4113**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1871): 122 Yeas, 8 Nays, 1 Present, not voting.

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

Nays — Brown, B.; Brown, F.; Crabb; Elkins; Hancock; Macias; Madden; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Chavez; Chisum; Eiland; Farabee; Giddings; Goolsby; Harper-Brown; Keffer; McCall; McReynolds; Moreno; Mowery; Oliveira; Thompson.

## STATEMENT OF VOTE

When Record No. 1871 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

### Senate Committee Substitute

**CSHB 4113**, A bill to be entitled An Act relating to the Buffalo Bayou Management District.

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

SECTION 1. Section 4, Chapter 997, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 4. BOUNDARIES. The Buffalo Bayou Management District ~~[district]~~ includes all the territory contained in the following described area:

POINT OF BEGINNING at the intersection of the center line of Allen Parkway and the west boundary line of the Houston Downtown Management District, then west along the center line of Allen Parkway to the west boundary line of Montrose right-of-way, then south along the west boundary line of Montrose right-of-way to the south boundary line of West Dallas right-of-way, then west along the south boundary line of West Dallas right-of-way to the intersection of the west boundary line of Shepherd Drive right-of-way. Then north along the west boundary line of Shepherd Drive right-of-way to the intersection of the south boundary line of the Memorial Drive right-of-way. Then west along the south boundary line of Memorial Drive right-of-way to the intersection of the west boundary line of Detering right-of-way. Then north along the west boundary line of Detering right-of-way to the intersection of the north boundary line of Memorial Drive right-of-way. Then east along the north boundary line of Memorial Drive right-of-way to the west boundary line of Shepherd Drive right-of-way. Then north along the west boundary line of Shepherd Drive right-of-way to the intersection of the north boundary line of Feagan Street right-of-way. Then east along the north boundary line of Feagan Street right-of-way until the intersection of the the west boundary line of Jackson Hill Street right-of-way. Then north along the west boundary line of Jackson Hill Street right-of-way to the intersection of the north boundary line of Blossom Street right-of-way. Then west along the north boundary line of Blossom Street right-of-way until the intersection of the east boundary line of Heights Boulevard right-of-way. Then north along the east boundary line of Heights Boulevard right-of-way to the intersection of the south boundary line of Washington Avenue right-of-way. Then east along the south boundary line of Washington Avenue right-of-way to the intersection of the west boundary line of the Washington Cemetery. Then south along the west boundary line of the Washington Cemetery to the intersection of the north boundary line of Memorial Drive right-of-way. Then east along the north boundary line of Memorial Drive right-of-way to the intersection of the northeast corner of Memorial Drive right-of-way and the northern bank of Buffalo Bayou. Then curve around the northern bank of Buffalo Bayou to the northeastern corner of the intersection of the north boundary line of Memorial Drive. Then east long the north boundary line of Memorial Drive

~~right-of-way to the west boundary line of Silver and north along the west boundary line of Silver right-of-way to the north boundary line of Memorial Drive Way right-of-way. Then east along the north boundary line of Memorial Drive Way right-of-way to the west boundary line of Sabine Street right-of-way. Then south along the west boundary line of Sabine Street right-of-way to the north boundary line of Memorial Drive right-of-way. Then east along the north boundary line of Memorial Drive right-of-way to the west boundary line of the Houston Downtown Management District. Then south along the west boundary line of the Houston Downtown Management District to the center line of Allen Parkway, the POINT OF BEGINNING [POINT OF BEGINNING at the intersection of the west boundary line of the Houston Downtown Management District and the north boundary of Memorial Drive right of way, then west along the north boundary of Memorial Drive right of way to the north boundary of Memorial Drive's Heights North exit ramp, then northwest along the north boundary of Memorial Drive's Heights North exit ramp to the east boundary of Heights boulevard right of way, then west across Heights Boulevard from the east boundary of Heights Boulevard right of way to the west boundary of the Heights Boulevard right of way, then south along the west boundary of Heights boulevard right of way to the north boundary of Memorial Drive's Memorial West entrance ramp, then southwest along the north boundary of Memorial Drive's Memorial West entrance ramp to the northern boundary line of Memorial Drive right of way, then west along the northern boundary line of Memorial Drive right of way to the west boundary line of Shepherd Drive right of way, then south along the west boundary line of Shepherd Drive right of way to the centerline of West Dallas, then east along the centerline of West Dallas to the intersection of the west boundary of Montrose Boulevard right of way and the centerline of West Dallas, then south along the west boundary line of Montrose Boulevard right of way to the south boundary line of U.S. Highway 59 and the west boundary line of Montrose Boulevard right of way, then in an easterly direction from said intersection along the south boundary line of U.S. Highway 59 to the intersection of the west boundary line of the Main Street right of way and then proceeding from said intersection in a northwesterly direction along the boundary line of the west Main Street right of way paralleling the boundary line of the Greater Southeast Management District to the intersection of the boundary line of the south Portland Street right of way and the boundary line of the west Main Street right of way, being the southern boundary line of the Midtown Management District, then proceeding from said intersection in generally a northeasterly direction the boundary line parallels the Midtown Management District boundary line to the intersection of the west boundary line of the US Hwy 45 right of way and the north boundary line of the Cleveland Street right of way, being the western boundary line of the Houston Downtown Management District, then north from said intersection along the western boundary line of the Houston Downtown Management District to the POINT OF BEGINNING].~~

SECTION 2. Sections 3820.051(a) and (b), Special District Local Laws Code, are amended to read as follows:

(a) Except as provided by Subsection (c), the district is governed by a board of nine [~~34~~] voting directors appointed under Section 3820.052 and nonvoting directors as provided by Section 3820.053.

(b) Voting directors serve staggered terms of four years, with four [~~15~~] or five [~~16~~] directors' terms expiring June 1 of each odd-numbered year.

SECTION 3. Section 3820.055, Special District Local Laws Code, is amended to read as follows:

Sec. 3820.055. BOARD [~~INITIAL DIRECTORS~~]. (a) The [~~initial~~] board consists of the following persons:

Pos. No. Name of Director

- 1 Kay Crooker
- 2 Steve Costello [~~Mike Garver~~]
- 3 Barrett Sides [~~Jackie Martin~~]
- 4 William Taylor [~~Mark Lee~~]
- 5 Julie McClure [~~John Chase, Jr.~~]
- 6 Peter Grim [~~Adrian Collins~~]
- 7 Max Schuette
- 8 Thomas Arcidiacono [~~June Deadrick~~]
- 9 Steve Gibson [~~Don Cutrer~~]
- [10] ~~Raju Adwaney~~
- [11] ~~Mike Mark~~
- [12] ~~Sia Ravari~~
- [13] ~~Cherry Walker~~
- [14] ~~John Hansen~~
- [15] ~~John Dao~~
- [16] ~~William Taylor~~
- [17] ~~Karen Domino~~
- [18] ~~Kevin Hoffman~~
- [19] ~~Jeff Andrews~~
- [20] ~~William Paul Thomas~~
- [21] ~~Theola Petteway~~
- [22] ~~Keith Wade~~
- [23] ~~Chryisse Wilson~~
- [24] ~~Sadie Rucker~~
- [25] ~~Julie McClure~~
- [26] ~~Angie Gomez~~
- [27] ~~Tom Fricke~~
- [28] ~~James Robert McDermaid~~
- [29] ~~Kathy Hubbard~~
- [30] ~~Marsha Johnson~~
- [31] ~~Craig Jackson~~

(b) The [~~Of the initial directors, the~~] terms of directors appointed for positions 1 through 5 [~~15~~] expire June 1, 2009 [~~2005~~], and the terms of directors appointed for positions 6 [~~16~~] through 9 [~~31~~] expire June 1, 2011 [~~2007~~].

(b-1) The term of each membership position on the board as the term exists immediately preceding the effective date of the Act adding this subsection expires on that effective date. On that date, a new board is appointed as provided by Subsection (a) to serve terms as provided by Subsection (b).

(c) Section 3820.052 does not apply to this section.

(d) This section expires September 1, 2011 ~~[2007]~~.

SECTION 4. Section 3820.105, Special District Local Laws Code, is amended to read as follows:

Sec. 3820.105. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$25,000 ~~[\$15,000]~~.

SECTION 5. Subchapter D, Chapter 3820, Special District Local Laws Code, is amended by adding Section 3820.160 to read as follows:

Sec. 3820.160. CERTAIN RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

SECTION 6. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 4113** (senate committee printing) by striking SECTION 5 of the bill (page 3, lines 36 through 41) and renumbering subsequent SECTIONS accordingly.

#### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 4113** (senate committee printing) as follows:

(1) In Section 1 of the bill, in amended Section 4, Chapter 997, Acts of the 78th Legislature, Regular Session, 2003 (page 1, line 41), Strike "west" and substitute "east"

(2) In Section 3 of the bill, in amended Section 3820.055(a), Special District Local Laws Code (page 2, line 61), strike Barrett Sides" and substitute "Ted Kennedy".

**HB 3560 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3560**, A bill to be entitled An Act relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities.

Representative Swinford moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3560**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3560**: Swinford, chair; Gallego, Ritter, Chisum, and Woolley.

**REMARKS ORDERED PRINTED**

Representative Dunnam moved to print remarks between Speaker Craddick and Representative Dunnam.

The motion prevailed.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE DUNNAM: The chair stated earlier that the chair could refuse to recognize a member on a question of privilege of the house under Rule 5, Section 24. Is that correct?

SPEAKER: That's correct.

DUNNAM: The chair stated that there is no appeal on the chair's decision on recognition, is that correct?

SPEAKER: That's correct.

DUNNAM: Can the chair then explain to the house how the chair, as a member of the house, in 1971 could vote to appeal the ruling of Speaker Mutscher that Ms. Farenthold's resolution to investigate the actions of Speaker Mutscher during the Sharpstown Scandal if the speaker could not refuse recognition? Because Ms. Farenthold moved a question of privilege, Mr. Mutscher did not recognize her, and it says that Mr. Craddick voted to appeal that recognition decision. So, what I'd like to ask you, if you voted that way in 1971, why can't this chamber vote that way today?

SPEAKER: Mr. Dunnam, I'm not sure at that time, Rule 5, Section 24, was in the rules, was it?

DUNNAM: I don't know. I do have a copy of the motion here and it says that Ms. Farenthold moved as a matter of privilege to take up and consider at that time **HCR 87**. The speaker did not recognize Ms. Farenthold on the motion stating that the resolution was not privileged under the rules of the house, and the recognition cannot be considered at the time. Mr. Denton appealed the ruling of the chair, it was seconded, and Mr. Craddick voted with the "Dirty 30".

SPEAKER: Mr. Dunnam, you're referring to a motion that I don't know whether Rule 5, Section 24, was even there at that time.

DUNNAM: The motion was to investigate the actions of Mr. Mutscher.

SPEAKER: Mr. Dunnam, I don't know whether this rule was in effect. I'm just looking at the rule book right here. The rule book says, Mr. Dunnam, okay, it says that under Rule 5, Section 24, under recognition, there should be no appeal from the speaker's recognition but the speaker shall be governed by rules and whatever.

DUNNAM: But matters of privilege, they have always not required recognition, Mr. Speaker.

SPEAKER: Excuse me?

DUNNAM: Matters of privilege have never required recognition. That's why they're called matters of privilege. They are matters that members can bring up and the speaker is required to recognize them. It was the same rule, I am informed. If there is no motion to vacate the chair under the rules, is a resolution declaring the office of speaker vacant, does that present a question of privilege of the house? A resolution, a resolution declaring the office of the speaker vacant, is that a question of privilege?

SPEAKER: It does present a question of privilege, but there are procedural ways in which you can take care of that matter.

DUNNAM: And what would those be?

SPEAKER: It is referred to committee unless there is a suspension.

DUNNAM: Under Mason Section 582, isn't the chair suppose to leave the chair under any business concerning the chair, and isn't that the same under Heinz Precedent Volume II, Section 1359? My question is basically if there is a motion made in regard to the status of the chair, is that chair going to rule on whether or not it's in order?

SPEAKER: Your first question, that is true, that's if you're recognized.

DUNNAM: And although you participated in appealing Mr. Mutscher's refusal to recognize Ms. Farenthold, you're saying that at this time this body will not have the ability to appeal your decision in this kind of matter?

SPEAKER: Mr. Dunnam, I'm just reading the rule book that we all use. I don't know whether Rule 5, Section 24, was there or not at that point.

DUNNAM: I'll go get a copy and I'll be back.

SPEAKER: That'd be great.

DUNNAM: In 1971, it is my understanding it was the same rule but it was Rule 11, Section 3. The number, the number of the rule, and I think it's in the last page, let's see. Goodness gracious, I had it here all along. I believe Rule 11, Section 3, of the 72nd Legislature says there shall be no appeal from the speaker's recognition but he shall be governed by the rules for uses of priority and entertaining motions from the floor. I believe that is the exact same rule we have today.

SPEAKER: We'll just have to look at it, Mr. Dunnam. Bring them down front and we'll look at them.

DUNNAM: I'll bring them down.

REPRESENTATIVE T. SMITH: Mr. Speaker, is it true in rendering an opinion on Mr. Dunnam's question that you overruled your own parliamentary and assistant parliamentary's advice to you?

SPEAKER: Not to my knowledge, Mr. Smith. I'm not advised.

T. SMITH: You don't know?

SPEAKER: I don't remember overruling my parliamentary, Mr. Smith.

T. SMITH: So you're telling me that Ms. Davis and Chris advised you that that ruling was appropriate and your ruling was consistent with their advice to you?

SPEAKER: Mr. Smith, I used the rules in front of me and I asked the parliamentary, which is an advisor to the speaker.

T. SMITH: And she told you that your ruling was correct and she agreed with it?

SPEAKER: I didn't, I didn't, I looked over and asked her, and I don't know if she agreed or didn't agree, Mr. Smith.

T. SMITH: So you're saying—did you or did you not, Mr. Speaker, ignore the advice of Denise Davis in rendering that opinion?

SPEAKER: It's a privileged conversation between the two of us, she said.

DUNNAM: Has the chair had the opportunity yet to review and compare Rule 11, Section 3, from the 72nd Legislature to our current Rule 5, Section 24, that you cited earlier?

SPEAKER: Not yet, Mr. Dunnam.

DUNNAM: Will you advise us when you've done so?

SPEAKER: She's going to look at it.

### REMARKS ORDERED PRINTED

Representative Dunnam moved to print remarks between Speaker Craddick and Representative Dunnam and Speaker Craddick and Representative T. Smith.

The motion prevailed.

REPRESENTATIVE PITTS: Who employs the parliamentarian?

SPEAKER: The speaker does.

PITTS: Is she an officer of the house?

SPEAKER: I was going to say he or she is a house officer.

PITTS: She would be an officer of the house?

SPEAKER: That's correct.

PITTS: And where does the privilege come in with an officer of the house with the speaker?

SPEAKER: It's special counsel, so there's attorney-client privilege as well.

PITTS: She is your special counsel for the house, is that correct?

SPEAKER: She is to the house, but to each individual member also.

PITTS: So you're exercising a privilege with your attorney on this matter, is that correct?

SPEAKER: Just a moment, Mr. Pitts.

#### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 46 and Senate List No. 49).

#### **HOUSE AT EASE**

At 7:51 p.m., the speaker announced that the house would stand at ease until 8 p.m. today.

The speaker called the house to order at 8:39 p.m.

#### **PARLIAMENTARY INQUIRY**

PITTS: We were in the middle of a conversation when you stood at ease.

SPEAKER: I'm sorry, Mr. Pitts.

PITTS: And I was asking about your evoking privilege with the parliamentarian. Did you come out with an answer on that, or do we have a parliamentarian tonight?

SPEAKER: I didn't hear objection to bring up the bills, but Mr. Pitts, Chris is right here behind us.

PITTS: I didn't see Chris.

SPEAKER: Okay.

PITTS: Mr. Speaker, parliamentary inquiry.

SPEAKER: Mr. Villarreal objects to bringing up the bills.

**RECESS**

At 8:43 p.m., the speaker announced that the house would stand recessed until 11 p.m. today.

**NIGHT SESSION**

The house met at 11 p.m. and was called to order by the speaker.

**APPOINTMENT OF NEW OFFICERS**

The speaker submitted the following announcement regarding officers for the House of Representatives of the Eightieth Legislature:

Pursuant to Section 4.02(d) of **HR 2** of the 80th Legislative Session, I hereby designate the following individuals as officers of the House of Representatives:

- The Honorable Terry Keel . . . . . Parliamentarian
- The Honorable Ron Wilson . . . . . Deputy Parliamentarian
- Kate Huddleston . . . . . Parliamentary Assistant

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE GEREN: Have Mr. Keel and Mr. Wilson been working on your behalf in your office this past week on any other matters?

SPEAKER: They've been working with me in a consulting basis.

GEREN: A consulting basis for you, not for the house, is that correct?

SPEAKER: That's correct, Mr. Geren.

GEREN: How have you decided that they should now be our parliamentarians?

SPEAKER: It's within my discretion as speaker to appoint them, and we needed a new parliamentarian.

GEREN: Did we not hire the parliamentarian in a resolution at the front end in January, sir?

SPEAKER: The resolution also gives the speaker authority to designate replacements for its officers.

GEREN: Mr. Speaker, I have a problem with you hiring someone who has been representing you for the last week, lobbying members on your behalf, and I think that it just doesn't look good for you to do that, sir.

SPEAKER: I know of no lobbying going on with these members.

TALTON: Earlier you had responded to Mr. Dunnam's questions as to a motion to vacate as not a matter of privilege, is that true?

SPEAKER: That is correct.

TALTON: Mr. Speaker, are you aware of the precedent that's been set out?

SPEAKER: Yes, sir.

TALTON: And you're aware of 1871, the 12th Legislature?

SPEAKER: Yes, we are.

TALTON: And you're aware that they said it was a matter of privilege at that time? And under that, they said that Mr. Butler offered as a matter of privilege the motion to vacate the speakership, and you're saying that's not a matter of privilege?

SPEAKER: That's correct.

TALTON: Based on what?

SPEAKER: Mr. Talton, if you'd like to put your inquiry in writing, we'll be glad to—

TALTON: I'd like to get an answer to the question, Mr. Speaker, because it bothers me that we're sitting here calling it a matter of privilege, but you're saying that it's not a matter of privilege, when any time an assembly puts a person in, they can take that person out. That's a matter of privilege. It's bothersome to me. Do you have a brief on it that we can look at?

SPEAKER: Yes, sir. We've briefed it.

TALTON: Sir?

SPEAKER: Yes, sir. We've briefed it.

TALTON: Well, will you share it with the rest of us, because I'm sitting here looking at the parliamentary law that we had for all these years, and there are rules, and it says that it is a matter of privilege.

SPEAKER: We'll be glad to share it with all the members at the appropriate time, Mr. Talton.

TALTON: And that will be when, Mr. Speaker?

SPEAKER: When a member asks for recognition and is recognized.

TALTON: And so you can do that whenever you want to, is that correct? Since you have the power of recognition, is that what you're telling this body?

SPEAKER: I would refer you to Rule 5, Section 24.

TALTON: Oh, I'm quite familiar with that, Mr. Speaker, but I'm talking about a matter of privilege. Are you familiar with Rule 5, Section 35 and 36, when it talks about matters of privilege?

SPEAKER: Yes, sir.

TALTON: And matters of privilege you have to recognize, do you not?

SPEAKER: No, sir. The power to recognize is absolute.

TALTON: And you're saying that a person can be kept in office and kept in the office of speaker or the office of the chair, and the body that elected him can never take him out, is that what you're saying?

SPEAKER: No, sir.

TALTON: What are you saying, then?

SPEAKER: That the House Rules govern that as well as the Texas Constitution, along with the Texas Constitution.

TALTON: Well, but under our rules, under Rule 14, if you look at Rule 14, Mr. Speaker, and Rule 1, Section 1, it says that if the rules are silent, then it's the House of Representatives of the U.S. Congress Rules, and Mason's Manual of Legislative Procedure. Is that agreeable?

SPEAKER: Look at those for matters of procedure and questions of order. You also look to the Texas Constitution.

TALTON: The Texas Constitution allows it up to two years. The speaker is elected by the body, and if the body can put a person in, are you saying that you can't take him out because of the constitution. Is that what you're saying?

SPEAKER: Mr. Talton, we're having a hard time hearing.

TALTON: So if I understand right, what you're saying, then, under the Texas Constitution, that if a body elects a speaker, that that body can't take him out of the chair and unelect him?

SPEAKER: That's not correct.

TALTON: What is the proper procedure to remove a speaker, a sitting speaker?

SPEAKER: The speaker or any other member can be expelled—

TALTON: So you're trying to make it a matter—

SPEAKER: If you'll let me finish. Can be expelled for an offense upon a two-thirds vote of this body. Any member of this house is automatically removed from office for conviction of bribery. The Texas Constitution furthermore has specific provisions dealing with the house and its ability to judge the qualifications for office and election contests. The exclusive remedies for removing a state office holder are contained within the Texas Constitution. Any mode outside of the authorized provisions must be enacted by law and cannot be enacted by one house, by rule or resolution.

TALTON: Is that all at this time, Mr. Speaker?

SPEAKER: Yes, sir.

TALTON: Then my next question is, are you saying that you have to impeach a speaker by two-thirds vote, instead of a simple majority on the motion to vacate? Is that what you're saying?

SPEAKER: No, sir. We will refer you to the Texas Constitution and the exclusive modes for dismissing a state office-holder that are contained within the Texas Constitution.

TALTON: Will you make that brief available to the membership today?

SPEAKER: If we have the time. We'd like to go on. I think most members, Mr. Talton, would like to go on and finish the items eligible, which I believe we stated earlier, were 11.

GEREN: Did we recess for over two hours without a motion to recess or a vote on that when you walked off the floor?

SPEAKER: We didn't have any items eligible at that time.

GEREN: Mr. Speaker, we could have had these conversations at that time, couldn't we? And he had one that was eligible at that time. Was there a motion to recess, Mr. Speaker?

SPEAKER: No, sir.

GEREN: You just recessed without a motion, is that correct, sir, and walked off the floor of the house? Is that correct, sir?

SPEAKER: It's the speaker's prerogative to do that, unless there's objection, Mr. Geren.

GEREN: There was objection, Mr. Speaker. There was objection all over the floor of the house. I know that you don't have a hearing problem that's that bad.

SPEAKER: No, sir.

GEREN: Mr. Speaker, did we also adjourn at 7:50, excuse me, stand at ease at 7:50 to come back at 8 o'clock?

SPEAKER: I think we didn't adjourn, Mr. Geren.

GEREN: No, we stood at ease at 7:50, and you said we'd come back at 8 o'clock, is that not correct?

SPEAKER: Yes, sir.

GEREN: And we came back when, sir?

SPEAKER: I'm not sure.

GEREN: About 8:40? All the members of the house were here waiting on you, as I recall.

SPEAKER: Yes, sir.

GEREN: My other question, what happened to our other parliamentarians, Mr. Speaker?

SPEAKER: The other parliamentarians, at their request, have been reassigned to another place in the house.

REPRESENTATIVE T. SMITH: Mr. Speaker, it's my understanding that Ms. Davis wrote a letter of resignation. Is that correct?

SPEAKER: Mr. Smith, we cannot discuss personnel matters.

T. SMITH: Would it be within the rules to provide that that letter of resignation be placed in the House Journal?

SPEAKER: That will be up to the parliamentarian and the deputy parliamentarian who submitted those letters. I think we have to ask them.

T. SMITH: Okay, to the parliamentarian who submitted the letter?

SPEAKER: That's correct, Mr. Smith.

T. SMITH: It's my understanding that you did not even seek her advice in ruling on this particular question, is that correct?

SPEAKER: That's not a proper parliamentary inquiry, Mr. Smith.

T. SMITH: Can I ask a question of you?

SPEAKER: State your inquiry.

T. SMITH: Is it true or not that you did not seek her advice on that particular ruling?

SPEAKER: That's not a proper parliamentary inquiry.

T. SMITH: Will you answer the question?

SPEAKER: No, sir. We're going to move on to the calendar.

T. SMITH: It's my understanding that your position is that because the speaker is a constitutional officer, that the constitution provides the manner by which that officer may be removed, is that correct?

SPEAKER: That's correct, and I think Mr. Talton asked that just a few moments ago.

T. SMITH: You are aware of the fact that this is not the first time a sitting speaker, that there has been an attempt to remove a sitting speaker from our state's legislature? Are you?

SPEAKER: That is correct, Mr. Smith.

T. SMITH: And are you aware of the fact that the only precedent of this particular activity in 1871, that the wording of the constitution was effectively identical to the wording of the constitution today, and the procedure that was followed in removing the speaker is the procedure that we believe should be followed today?

SPEAKER: Correct, Mr. Smith.

T. SMITH: It's not the procedure that you are recommending and advocating today, to this body, is that correct?

SPEAKER: Your last statement was incorrect, Mr. Smith.

T. SMITH: Is it your position that the speaker at that time was removed pursuant to the impeachment articles in our state's constitution?

SPEAKER: No, I didn't say that.

T. SMITH: Is it your position that the manner in which the speaker should be removed, if he is to be removed today, is the same procedure that applied in 1871?

SPEAKER: There are additional constitutional provisions that did not exist in 1871.

T. SMITH: Can you tell us what those constitutional provisions are and the extent to which they dictate a different result, and when they were passed?

SPEAKER: Among others, Article XV, Section 7, and other provisions. Furthermore, the legislature of the house and senate have never enacted by law, since 1871, any statute that would provide for the procedure of which you're suggesting. The legislature cannot, by rule, overrule provisions of the Texas Constitution.

T. SMITH: Is it your position that the speaker may not be removed from office by the members who elect him?

SPEAKER: There are provisions to remove the speaker by members and I've stated what those are.

T. SMITH: Okay, can you tell me again what that is?

SPEAKER: Mr. Smith, we said we'd put this in the journal and submit it. I think that some members would like to go on with the state's business and I'd be glad to visit with you after that, but I think it's real important in the next 45 minutes we take up several bills.

T. SMITH: Where were you for the last five hours, when this business could have been taken up?

SPEAKER: That is not a proper parliamentary inquiry, I don't think, Mr. Smith.

T. SMITH: You referred to Article XV, Section 7, in support of your position regarding the removal of officers, is that correct?

SPEAKER: Among other provisions.

T. SMITH: Section 2, is it your position that impeaching the speaker is one of the ways by which we can remove him from office, under certain circumstances?

SPEAKER: Any member can be removed, including the speaker, upon a two-thirds vote of the house, for offenses that the house determines in a procedure to remove that member or speaker.

T. SMITH: Can you help me understand—

SPEAKER: We've already addressed this question in response to Representative Talton.

REPRESENTATIVE DUNNAM: Is the chair advised that Mr. Keel is currently representing a member of the house on a criminal matter?

SPEAKER: I'm not advised, Mr. Dunnam.

DUNNAM: Is the chair advised that the assistant parliamentarian that you have chosen represented Mr. Talmadge Heflin, pro bono, against Hubert Vo, who is a current sitting member of the Texas House?

SPEAKER: None of those are proper inquiries.

DUNNAM: Do you think it is proper to have an assistant parliamentarian who represented the case against a sitting member of your house?

SPEAKER: Mr. Dunnam, Mr. Brown has the floor, and that's not a proper—

DUNNAM: Will you recognize any member of this chamber, for us, for a motion to elect an impartial parliamentarian?

SPEAKER: That's not authorized by House Rules.

DUNNAM: Well, I would like to suspend the rules to offer such a motion.

SPEAKER: You're not recognized for that.

DUNNAM: Mr. Speaker, can we appeal that ruling?

SPEAKER: You're not recognized for that motion, Mr. Dunnam.

DUNNAM: Does anyone's voice in this chamber matter but yours?

SPEAKER: We're going to follow the House Rules.

DUNNAM: And Mr. Keel's?

SPEAKER: We're going to—

DUNNAM: And Mr. Wilson's?

SPEAKER: We're going to follow the House Rules, Mr. Dunnam.

DUNNAM: We're going to follow the House Rules?

SPEAKER: Yes, sir.

DUNNAM: When? This is my chamber, too, Mr. Speaker.

**HB 610 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 610**, A bill to be entitled An Act relating to a plan to provide services to an area annexed by a municipality.

Representative F. Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 610**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 610**: F. Brown, chair; Isett, B. Brown, Hancock, and D. Howard.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE PITTS: Mr. Speaker, we can suspend the necessary rules to take up some of these bills after twelve o'clock, can we not?

SPEAKER: We do have the option to do that, Mr. Pitts.

PITTS: Okay. Will you take that motion and recognize someone for that motion?

SPEAKER: At the proper time we will.

PITTS: I know Ms. Cohen and Mr. Garcia have bills that they've put a lot of time and energy in, and we have **HB 15** that we need to pass tonight.

SPEAKER: Mr. Pitts, Mr. Dutton has the floor. **HB 15** is right behind his.

PITTS: Were you aware that your assistant parliamentarian has a fine of \$8,300 to the Ethics Commission that is unpaid?

SPEAKER: No, I wasn't and that's not a proper parliamentary inquiry.

PITTS: Are you aware that your assistant parliamentarian did not report his cash on hand when his campaign was concluded?

SPEAKER: Mr. Pitts, do you have a proper parliamentary inquiry, because that's not one?

PITTS: Do you think it's a proper officer of this house for someone who owes an ethics fine with the Ethics Commission?

SPEAKER: Mr. Pitts, you need to yield the floor back to Mr. Dutton.

PITTS: Mr. Speaker, as soon as I receive the answer.

SPEAKER: Mr. Pitts, we're not advised of any political questions that you're arising.

### **HJR 19 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HJR 19**, A joint resolution proposing a constitutional amendment to require each house of the legislature to take a record vote on final passage of a bill other than certain local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to publish the record vote on the Internet.

Representative Dutton moved to concur in the senate amendments to **HJR 19**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1872): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg;

Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Deshotel; Hamilton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst.

Absent — Harless; Moreno.

### Senate Committee Substitute

**CSHJR 19**, A joint resolution proposing a constitutional amendment to require a house of the legislature to take a record vote on certain legislative measures and actions and to provide for public Internet access to those record votes.

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

SECTION 1. Section 12, Article III, Texas Constitution, is amended to read as follows:

Sec. 12. (a) Each House shall keep a journal of its proceedings, and publish the same.

(b) A vote taken by either House must be by record vote of the yeas and nays entered in the journal of that House if the vote is on approval or disapproval of a bill, approval or disapproval of a measure proposing or ratifying a constitutional amendment, approval or disapproval of an amendment or substitute to such a bill or measure if any member objects to adoption of the amendment, or the confirmation of an appointment or nomination to public office. Either House by rule may provide for exceptions to the preceding requirement for a bill, or an amendment or substitute to a bill, that applies only to one district or political subdivision of this state. In addition, ~~and~~ the yeas and nays of the members of either House on any other question before that House shall, at the desire of any three members present, be entered on the journals.

(c) Each House shall make each record vote required under Subsection (b) of this section, including the vote of each individual member as recorded in the journal of that House, available to the public for a reasonable period of not less than two years through the Internet or a successor electronic communications system accessible by the public. For a record vote on a bill or on a measure proposing or ratifying a constitutional amendment, the record vote must be accessible to the public by reference to the designated number of the bill or measure and by reference to its subject.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2007. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to require that a record vote be taken by a house of the legislature on a bill, constitutional amendment, amendment to a bill or constitutional amendment, or

confirmation of an appointment to public office, and to provide for public access on the Internet to those record votes."

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

Amend **CSHJR 19** by striking all below the resolving clause and substituting the following:

SECTION 1. Section 12, Article III, Texas Constitution, is amended to read as follows:

Sec. 12. (a) Each house of the legislature [~~House~~] shall keep a journal of its proceedings, and publish the same.

(b) A vote taken by either house must be by record vote with the vote of each member entered in the journal of that house if the vote is on final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or another resolution other than a resolution of a purely ceremonial or honorary nature. Either house by rule may provide for exceptions to this requirement for a bill that applies only to one district or political subdivision of this state. For purposes of this subsection, a vote on final passage includes a vote on third reading in a house, or on second reading if the house suspends the requirement for three readings, on whether to concur in the other house's amendments, and on whether to adopt a conference committee report.

(c) The [~~;~~ and the] yeas and nays of the members of either house [~~House~~] on any other question shall, at the desire of any three members present, be entered on the journals.

(d) Each house shall make each record vote required under Subsection (b) of this section, including the vote of each individual member as recorded in the journal of that house, available to the public for a reasonable period of not less than two years through the Internet or a successor electronic communications system accessible by the public. For a record vote on a bill or on a resolution proposing or ratifying a constitutional amendment, the record vote must be accessible to the public by reference to the designated number of the bill or resolution and by reference to its subject.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2007. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to require that a record vote be taken by a house of the legislature on final passage of any bill, other than certain local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to provide for public access on the Internet to those record votes."

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE MERRITT: We have had a ruling by the parliamentarian on Rule 5, Section 51(a), when we were electing our officers, and that ruling, as I interpret it, said that we conduct ourselves outside the constitution and Phil King raised the point of order against further consideration of Article III, Section 12, of the Texas Constitution and Rule 5, Section 51, of the temporary House Rules, and the chair overruled the point of order, stating, in part, that the supreme court had determined that the senate could proceed by secret ballot in the Texas Senate, and

that we would operate by our own rules, and not by the constitution, and I would like to raise that point of order up to allow us to move forward with the proceedings of the house.

SPEAKER: Mr. Merritt, the proceedings of the house are moving forward.

MERRITT: Article III, Section 41, clearly gives each house of the legislature the authority to elect its officers by means other than a viva voce vote, i.e. 120-21. Second, Article III, Section 41, authorized each legislative chamber to elect the officers by secret ballot, should it choose to do so. Are we not governed by this rule that allows us to conduct our business outside the constitution, as this rule first gave us?

SPEAKER: Unless there's a competing constitutional provision.

MERRITT: I didn't hear the response, Mr. Speaker.

SPEAKER: Unless there's a competing constitutional provision.

MERRITT: Pardon me, Mr. Speaker. Are you aware that there's a standing objection already at your desk to object to adjournment?

SPEAKER: We're aware of that, Mr. Merritt.

MERRITT: Yes, sir. Furthermore, on the conducting of business. The arguments based on a policy concerns for or against a secret ballot are not for the court to consider. The constitution fell behind by not requiring a secret ballot, commits that the choice be of the chamber. Mr. Speaker, I believe that we are in control of our rules over and above what the constitution says by this ruling that we had on the very first day of the session. Is that correct?

SPEAKER: Mr. Merritt, we've answered that question previously.

MERRITT: I beg your pardon?

SPEAKER: We've previously answered that question already.

MERRITT: You've previously answered the question that we cannot operate the house by our own rules as to what the constitution provides?

SPEAKER: The House Rules are specifically authorized by the constitution.

MERRITT: Mr. Speaker, this particular—

SPEAKER: We're not finished, Mr. Merritt.

MERRITT: I'm sorry.

SPEAKER: The constitution also governs procedural matters.

MERRITT: No, sir. That's not what's in this rule, Rule 5, Section 51(a), that was given as a ruling.

SPEAKER: Mr. Merritt, we can't answer the question if you don't let us do that.

MERRITT: Mr. Speaker, is the constitution clear that arguments based on policy concerns for or against a secret ballot are not for the officer to consider, but are rather properly and wisely entrusted to the members of the Texas House? In short, the members must make this determination themselves, and I believe that's in

Rule 5, Section 51(a), or 51, and I don't believe the parliamentarian was aware of that when he made that ruling. This is something that was made this year.

SPEAKER: Mr. Merritt, the rules of the house are authorized by the Texas Constitution.

(Gattis, Hamilton, and Kolkhorst now present)

**HB 15 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 15**, A bill to be entitled An Act relating to making supplemental appropriations and reductions in appropriations.

Representative Chisum moved to concur in the senate amendments to **HB 15**.

**HB 15 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE COLEMAN: Chairman Chisum, we talked a little bit earlier about that provision in **HB 15** regarding Texas Southern University, and you showed me a portion of that particular amendment that you intended to strike, and so does that mean you're taking this bill to conference to change that amendment, and what are your intentions on that language, Mr. Chisum?

REPRESENTATIVE CHISUM: My intention is to leave that language in there and ask the house not to appoint a conference committee, but in fact to concur with the senate amendments to **HB 15**.

COLEMAN: Okay. Could you let us know what that language is again, please, Mr. Chisum? Because when we talked earlier, you had shown me a provision that I think you had planned on striking, and I just want to be very clear about this, because I spoke with you earlier about Texas Southern University, and wanted to make sure we didn't leave here without—

CHISUM: Garnet, I understand, and let me read the amendment, Senate Amendment No. 2. It says, "an appropriation made by this section (a) of this section, shall be contingent upon the development of a suitable plan of reorganization, approved by the Legislative Budget Board, and the governor, or place the university under conservatorship, as defined by Government Code Chapter 2104."

COLEMAN: Okay, as we spoke earlier, Mr. Chisum, I asked you whether or not the governor's office agreed with that provision, because it requires both the Legislative Budget Board and the governor's office to comply and otherwise clearly if they did not agree, then would there be a move to put the university into conservatorship? Our discussion has been about whether or not by legislation or by agreement, that everyone could understand whether or not the intentions of this legislature or the state government, whether to put Texas Southern University into conservatorship, which would end the accreditation of the university.

CHISUM: The intent of this amendment to **HB 15** was that we work a suitable plan for the rehabilitation of Texas Southern University. That's it, it doesn't require anything else, but if that is not possible, if we cannot come up with a plan for the rehabilitation of Texas Southern University, then we would appropriate the money, if the governor assigned a conservator to—

COLEMAN: So what that means is that leaves it in the hands, during the interim, of whether or not people agree to come up with a plan, and if, for some reason, they disagree, you would put it into conservatorship in order to appropriate the money to TSU. Is that what you're saying to me, Mr. Chisum?

CHISUM: Mr. Coleman, I believe under the Government Code Chapter 2104, that the Legislative Audit Committee would have to meet and make a determination of whether or not to allow the governor to appoint a conservator.

COLEMAN: I understand that, Mr. Chisum, but as we spoke earlier, what I've been trying to understand from you, is whether or not there would be an assurance when we left here, whether or not Texas Southern University would go into conservatorship or not, and that's what I've been asking this legislature, and I can't seem to get an answer.

CHISUM: Well, I'm going to try to answer you one more time.

COLEMAN: Okay.

CHISUM: It is my intent, as well as, I think, every member of this house, that Texas Southern enter into a rehabilitation plan that is suitable to the Legislative Budget Board and the governor's office.

COLEMAN: Isn't a rehabilitation plan usually done by a Legislative Audit Committee?

CHISUM: I'm not aware of that.

COLEMAN: Well, that's part of the statute.

CHISUM: I read Government Code 2104, and it did not say that. Is that the part that you're talking about?

COLEMAN: Well, I think the problem is that under the conservator statute, sir, and because it's part of the conservatorship statute, I'm concerned because that's why I asked you a little bit earlier, whether or not, the intentions were that this particular provision had benchmarks and plans, in order to tell this legislature, the board, the governor, the students, and the administration, that we had an understanding of what the agreement would be to make sure that the university did not end up in conservatorship, and that's what I'm trying to ask you. And if you want, you can ask Ms. Kolkhorst about the conversation we had a little bit earlier, and maybe she can interpret it for you.

CHISUM: I don't need any interpretation. There are no benchmarks in this. This just says to come up with a plan that is a suitable plan by the Legislative Budget Board as well as the governor.

COLEMAN: But doesn't that leave us without a measurement for what success is that prevents conservatorship, Mr. Chairman?

CHISUM: Mr. Coleman, it just says they come up with a plan.

COLEMAN: I know, and I'm saying that it's not adequate, I object to that.

CHISUM: It'd be better if I could go ahead and answer you.

COLEMAN: Go ahead, sir.

CHISUM: Okay, it only affects \$25 million that would be appropriated to them, or not, if they come up with this plan.

COLEMAN: No, it is \$38 million. There's \$13 million in the emergency appropriations bill and \$25 million in LCR money, which is a settlement between the federal government and the State of Texas, Mr. Chisum. So that's why I need to know, because I think the other members of this house would like to know what the intentions are of the legislature when it comes to one of the state institutions, and that's the reason I'm asking you these questions. I'm having a hard time getting an answer that is satisfactory.

CHISUM: Alright, I don't know how else to answer you. That it is my intent that a suitable plan is drawn up to rehabilitate Texas Southern University. If you have a plan in your pocket, that may be a suitable plan.

COLEMAN: I had a suitable plan that was a rider that I presented to you two days ago that was in the appropriations bill until probably about two o'clock this afternoon, or some version thereof, and so I think I've submitted that suitable plan. The reason why I'm concerned is because you opened up **HB 1** for the sole express reason of removing that plan, and I'm trying to understand what the plan is. So thank you for answering my questions.

### REMARKS ORDERED PRINTED

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

The motion prevailed.

A record vote was requested.

The motion to concur in senate amendments to **HB 15** prevailed by (Record 1873): 113 Yeas, 30 Nays, 1 Present, not voting.

Yeas — Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Flores; Flynn; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Orr; Ortiz; Otto;

Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Bolton; Burnam; Castro; Coleman; Davis, Y.; Farias; Farrar; Frost; Gallego; Garcia; Gonzalez Toureilles; Haggerty; Hernandez; Herrero; Hochberg; Hodge; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; Miles; Oliveira; Olivo; Pierson; Rodriguez; Thompson; Vaught; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Escobar; Hamilton; Harless; Moreno; Mowery.

### STATEMENTS OF VOTE

When Record No. 1873 was taken, I was in the house but away from my desk. I would have voted yes.

Escobar

I was shown voting no on Record No. 1873. I intended to vote yes.

Lucio

I was shown voting no on Record No. 1873. I intended to vote yes.

Mallory Caraway

I was shown voting yes on Record No. 1873. I intended to vote no.

Merritt

I was shown voting no on Record No. 1873. I intended to vote present, not voting.

Miles

I was shown voting yes on Record No. 1873. I intended to vote no.

Talton

### Senate Committee Substitute

**CSHB 15**, A bill to be entitled An Act relating to making supplemental appropriations and reductions in appropriations and giving direction, transfer authority, and other adjustment authority regarding appropriations.

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

SECTION 1. AUSTIN COMMUNITY COLLEGE: GROUP HEALTH INSURANCE. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$3,678,942 is appropriated out of the general revenue fund to Austin Community College for the two-year period beginning on the effective date of this Act for the purpose of correcting the institution's underreporting of its state-funded group health insurance enrollment for fiscal years 2006 and 2007.

SECTION 2. SOUTH PLAINS COLLEGE: GROUP HEALTH INSURANCE. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$1,424,764 is appropriated out of the general revenue fund to South Plains College for the two-year period beginning on the effective date of this Act for the purpose of correcting the institution's underreporting of its state-funded group health insurance enrollment for fiscal years 2006 and 2007.

SECTION 3. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: OPERATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$27,000,000 is appropriated out of the general revenue fund to the Texas Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of providing for salaries and wages, hazardous duty and longevity pay, overtime pay, contractual rate adjustments, utilities, and fuel.

SECTION 4. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: CORRECTIONAL MANAGED HEALTH CARE. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$12,940,619 is appropriated out of the general revenue fund to the Texas Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of providing for correctional managed health care.

SECTION 5. TEXAS MEDICAL BOARD: OPERATIONS. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$1,222,827 is appropriated out of the general revenue fund to the Texas Medical Board for the two-year period beginning on the effective date of this Act for the purpose of:

- (1) repaying the Governor's Emergency and Deficiency Grant awarded in fiscal year 2006; and
- (2) providing for agency operating expenses for licensing and enforcement.

(b) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$600,248 is appropriated out of the public assurance account to the Texas Medical Board for the two-year period beginning on the effective date of this Act for the purpose of providing for agency operating expenses for licensing and enforcement.

(c) In addition to the number of full-time equivalent employees (FTEs) the Texas Medical Board is authorized to employ by other law during the state fiscal year ending August 31, 2007, the board may employ an additional six FTEs during that period.

SECTION 6. TEXAS DEPARTMENT OF LICENSING AND REGULATION: COSTS RELATED TO FORMER COSMETOLOGY COMMISSION AND BOARD OF BARBER EXAMINERS. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$463,202 is appropriated out of the general revenue fund to the Texas Department of Licensing and Regulation for the two-year period beginning on the effective date of this Act for the purposes of paying:

(1) the unanticipated costs of relocating the functions and operations of the former Cosmetology Commission and the former Board of Barber Examiners; and

(2) obligations, including interest accrued on the obligations, of the former Cosmetology Commission and the former Board of Barber Examiners.

(b) This subsection applies with respect to the obligation to pay for goods or services received before August 31, 2005, by the former Cosmetology Commission or the former Board of Barber Examiners. A claim for payment or reimbursement for goods or services to which this subsection applies may not be paid from money appropriated by Subsection (a) of this section until the claim is verified and substantiated by the executive director of the Texas Department of Licensing and Regulation and until it is subsequently approved by the attorney general and the comptroller of public accounts. The approvals must occur before August 31, 2008.

**SECTION 7. TEXAS BUILDING AND PROCUREMENT COMMISSION: RENOVATION AND REPAIRS TO SAM HOUSTON BUILDING.** In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$3,000,000 is appropriated out of the general revenue fund to the Texas Building and Procurement Commission for the two-year period beginning on the effective date of this Act for the purpose of making renovations and repairs to the Sam Houston Building.

**SECTION 8. TEXAS BUILDING AND PROCUREMENT COMMISSION: UTILITIES.** In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$2,847,069 is appropriated out of the general revenue fund to the Texas Building and Procurement Commission for the two-year period beginning on the effective date of this Act for the purpose of making utility payments.

**SECTION 9. TEXAS SOUTHERN UNIVERSITY: CONTINGENCY APPROPRIATION FOR DEFERRED MAINTENANCE AND OTHER EXPENSES.** (a) Subject to Subsection (b) of this section, and in addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$13,645,120 is appropriated out of the general revenue fund to Texas Southern University for the two-year period beginning on the effective date of this Act for the purpose of providing deferred maintenance, paying outstanding expenses, making emergency maintenance repairs, paying contract deficits, paying audit and legal costs, providing funding for summer school, and providing funding for the TSU/HISD Charter School.

(b) The appropriation made by Subsection (a) of this section is contingent on the occurrence of either:

(1) the enactment and becoming law of **SB 2039** or similar legislation by the 80th Legislature, Regular Session, 2007; or

(2) the appointment of a conservator for Texas Southern University under Chapter 2104, Government Code.

**SECTION 10. TEXAS SOUTHERN UNIVERSITY: CONTINGENCY APPROPRIATION FOR ACADEMIC DEVELOPMENT INITIATIVE.** (a) Subject to Subsection (b) of this section, and in addition to other amounts

appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the following amounts are appropriated out of the general revenue fund to Texas Southern University for the Academic Development Initiative:

(1) \$12,500,000 is appropriated for the state fiscal year ending August 31, 2008; and

(2) \$12,500,000 and any unexpended balance of the amount appropriated under Subdivision (1) of this subsection are appropriated for the state fiscal year ending August 31, 2009.

(b) The appropriations made by Subsection (a) of this section are contingent on the occurrence of either:

(1) the enactment and becoming law of **SB 2039** or similar legislation by the 80th Legislature, Regular Session, 2007; or

(2) the appointment of a conservator for Texas Southern University under Chapter 2104, Government Code.

(c) The amounts appropriated by Subsection (a) of this section shall be used for:

(1) proven academic success programs;

(2) existing graduate programs;

(3) undergraduate education; and

(4) initiatives to target enrollment growth.

(d) Not later than November 1 of each fiscal year, the university shall submit to the Texas Southern University Board of Regents, the Texas Higher Education Coordinating Board, the Legislative Budget Board, and the governor a report describing the use of the funds appropriated by Subsection (a) of this section that states the goals to be achieved through use of the funds and establishes timelines and milestones for showing progress in meeting the goals. The report shall include proposed actions to be taken in the event a milestone is not met.

**SECTION 11. TEXAS FOREST SERVICE: REIMBURSEMENT FOR WILDFIRE COSTS.** In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$44,730,767 is appropriated out of the general revenue fund to the Texas Forest Service for the two-year period beginning on the effective date of this Act for the purpose of providing reimbursement for costs related to wildfire.

**SECTION 12. UNIVERSITY OF HOUSTON: TEXAS FORENSIC SCIENCE COMMISSION EXPENSES.** (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$45,000 is appropriated out of the general revenue fund to the University of Houston for the two-year period beginning on the effective date of this Act for the purposes of paying salary, office, and travel expenses of the Texas Forensic Science Commission under Article 38.01, Code of Criminal Procedure.

(b) From money appropriated by Subsection (a) of this section, the commission is authorized to employ one full-time equivalent employee (FTE) during the period covered by the appropriation.

SECTION 13. ADJUTANT GENERAL'S DEPARTMENT: OPERATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$1,681,615 is appropriated out of the general revenue fund to the Adjutant General's Department for the two-year period beginning on the effective date of this Act for the purpose of paying salaries and wages and providing for maintenance and operations.

SECTION 14. RESTORATION OF REDUCTIONS RELATED TO COMMERCIAL AIR TRAVEL. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the following amounts are appropriated to the following agencies for the two-year period beginning on the effective date of this Act for the purpose of restoring reductions in appropriations for commercial air travel made pursuant to Section 5.09, Article IX, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act):

(1) the Structural Pest Control Board is appropriated \$2,595 out of the general revenue fund;

(2) the School for the Blind and Visually Impaired is appropriated \$33,370 out of the general revenue fund;

(3) the School for the Deaf is appropriated \$139,207 out of the general revenue fund; and

(4) the Eleventh Court of Appeals, Eastland, is appropriated \$3,383 out of the general revenue fund.

SECTION 15. SUPREME COURT: MULTI-DISTRICT LITIGATION. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$50,747 is appropriated out of the general revenue fund to the Supreme Court of Texas for the two-year period beginning on the effective date of this Act for the purpose of providing grants to appellate courts for additional court staff to handle multi-district litigation cases, such as cases related to asbestosis or silicosis, appealed from the trial courts.

SECTION 16. HEALTH AND HUMAN SERVICES COMMISSION: PRIVATE HOSPITAL UPPER PAYMENT LIMIT PROGRAM; TRANSFER FROM TEXAS TECH HEALTH SCIENCES CENTER. (a) The Texas Tech University Health Sciences Center shall transfer an amount of non-Medicaid state-appropriated funds, not to exceed \$4,500,000, to the Health and Human Services Commission during the state fiscal biennium ending August 31, 2007. The comptroller in consultation with the commission shall determine the time or times of the transfer. The commission in consultation with the Legislative Budget Board, the comptroller, and the health sciences center shall determine the amount of the transfer based on achieving the optimal match of available federal funds.

(b) The Health and Human Services Commission is authorized to expend amounts transferred under Subsection (a) of this section during the two—year period beginning on the date of the transfer for the state contribution under the private hospital upper payment limit program.

SECTION 17. HEALTH AND HUMAN SERVICES COMMISSION: TRANSFER OF FUNDS APPROPRIATED FOR CHIP SERVICES. Notwithstanding any provision of another Act making appropriations to the

contrary, the Health and Human Services Commission may, without the necessity of prior approval by another officer or entity, transfer funds appropriated to the commission under Goal C: CHIP Services by Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (page II-70, General Appropriations Act), to other goals and strategies as necessary to efficiently and effectively comply with the provisions of this Act.

SECTION 18. HEALTH AND HUMAN SERVICES COMMISSION: STAFFING AND CAPITAL BUDGET AUTHORITY IN LIEU OF CONTRACTED RESPONSIBILITIES. (a) Notwithstanding any other provision in this Act or another Act making an appropriation, if the executive commissioner of the Health and Human Services Commission determines that a service performed as of the effective date of this Act under a contract would be more effectively performed by state personnel, the executive commissioner may adjust the agency's full-time equivalent employee (FTE) limitation prescribed by any Act making an appropriation to the extent necessary to ensure the successful assumption of such contracted duties, provided that the commission has made corresponding adjustments in the scope of duties and responsibilities under the affected contract. An increase in agency staffing resulting from the executive commissioner's determination under this section is subject to the following requirements:

(1) the executive commissioner must notify the Legislative Budget Board and the governor at least 10 days before adjusting the budgeted FTE levels; and

(2) the executive commissioner must report on a quarterly basis beginning December 1, 2007, to the Legislative Budget Board and the governor the number of eligibility and related support staff and any related costs under the appropriations made to the commission for Strategy A.1.2, Integrated Eligibility and Enrollment, by the applicable General Appropriations Act.

(b) Notwithstanding any other provision in an Act making an appropriation, if the executive commissioner of the Health and Human Services Commission determines that a service performed as of the effective date of this Act under a contract would be more effectively performed by state personnel, the Health and Human Services Commission may exceed the capital budget authority limitations provided elsewhere in an Act making an appropriation to the extent necessary to acquire hardware, software, and office space to support any assumed contracted duties and responsibilities, provided that the commission has made corresponding adjustments in the scope of the affected contract. An increase in capital expenditures is subject to the following requirements:

(1) the executive commissioner must notify the Legislative Budget Board and the governor at least 10 days before acquiring capital equipment; and

(2) the executive commissioner must include capital acquisitions in required financial reporting to the Legislative Budget Board and the governor.

(c) This section applies in relation to the Health and Human Services Commission for the two-year period beginning on the effective date of this Act.

SECTION 19. HEALTH AND HUMAN SERVICES COMMISSION: GENERAL SUPPLEMENTAL APPROPRIATIONS. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$110,000,000 is appropriated out of the general revenue fund to the Health and Human Services Commission for the two-year period beginning on the effective date of this Act. The amounts appropriated by this section may be expended by the commission or transferred by the commission to a health and human services agency for expenditure for any purpose for which the Health and Human Services Commission or health and human services agency received an appropriation under Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act).

SECTION 20. HEALTH AND HUMAN SERVICES COMMISSION AND HEALTH AND HUMAN SERVICES AGENCIES: *FREW V. HAWKINS* COMPLIANCE. (a) This section provides direction, information, transfer authority, capital budget authority, and full-time-equivalent employee (FTE) authority in relation to the *Frew v. Hawkins* lawsuit regarding amounts described by this section that are appropriated by any Act of the 80th Legislature, Regular Session, 2007. This section does not of itself make an appropriation.

(b) In this section:

(1) "Appropriating Act" means an Act of the 80th Legislature, Regular Session, 2007, that makes one or more appropriations.

(2) "Executive Commissioner" means the Executive Commissioner of the Health and Human Services Commission.

(3) "*Frew v. Hawkins*" means the lawsuit styled *Linda Frew, et al. v. Albert Hawkins, et al.*, Civil Action No. 3:93CA65 (U.S. Dist.—E.D. Tex.).

(4) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

(5) "Joint Motion" means the Joint Motion for Entry of Agreed Corrective Action Order filed jointly by the plaintiffs and defendants in *Frew v. Hawkins* on April 27, 2007.

(c) Contingent on applicable approval by the federal judiciary and pursuant to the Joint Motion in *Frew v. Hawkins*, the amount of \$1,779.9 million in All Funds, including \$706.7 million in General Revenue, appropriated by any appropriating Act to the Health and Human Services Commission (HHSC) may be used to improve access to medically necessary services for members of the plaintiff class in that lawsuit and to ensure compliance with the Consent Decree and judicially-approved Corrective Action Plans in that lawsuit during the state fiscal biennium ending August 31, 2009. Notwithstanding any limitation on transfer authority prescribed by any appropriating Act, the Executive Commissioner may transfer amounts appropriated to the Health and Human Services Commission or to a health and human services agency by any appropriating Act, in a cumulative amount not to exceed the amounts described above in this subsection, within and among the commission and the health and human services agencies as necessary to accomplish the purposes described by this section.

(d) The Executive Commissioner shall develop a plan consistent with Subsection (c) of this section that details the proposed expenditure of funds under this section in a manner that addresses the requirements of the Consent Decree, the Joint Motion, and the judicially-approved Corrective Action Plans in *Frew v. Hawkins*, to the extent those judicially-approved Corrective Action Plans supersede the Joint Motion. All expenditures by HHSC or a health and human services agency that address the requirements of the Consent Decree, the Joint Motion, or the judicially-approved Corrective Action Plans in *Frew v. Hawkins* must be made pursuant to the plan or a plan amendment. The Executive Commissioner shall submit the plan to the Legislative Budget Board and the Governor not later than September 1, 2007, or as soon thereafter as practical following judicial approval of the Corrective Action Plans. The Executive Commissioner may develop amendments to the plan as necessary and shall submit any amendments to the plan to the Legislative Budget Board and the Governor. In accordance with Section 69, Article XVI, Texas Constitution, expenditures pursuant to the plan or any plan amendment may not be made without the prior approval of the Governor and the Legislative Budget Board.

(e) To the extent not otherwise superseded by the judicially-approved Corrective Action Plans, the amounts described by this section that may be used for purposes of *Frew v. Hawkins* compliance may be used for the following purposes:

(1) a 25 percent increase in physician and other professional reimbursement rates for services to children enrolled in the medical assistance program and covered by the Joint Motion (\$511.3 million in All Funds including \$203 million in General Revenue);

(2) a 50 percent increase in dental reimbursement rates for services to children enrolled in the medical assistance program and covered by the Joint Motion (\$661.6 million in All Funds including \$258.7 million in General Revenue);

(3) a targeted rate increase for certain specialists for services to children enrolled in the medical assistance program and covered by the Joint Motion (\$125.9 million in All Funds including \$50 million in General Revenue);

(4) strategic dental and medical initiatives concerning services to children enrolled in the medical assistance program and covered by the Joint Motion (\$150 million in General Revenue) which may include but are not limited to the following:

(A) mobile medical and dental vans and operations in underserved areas of the state, commencing with health and human services Region 11;

(B) stipends or other incentives that qualify for federal financial participation to health care professionals who provide health care services in an underserved area to children enrolled in the medical assistance program;

(C) targeted rate adjustments not otherwise included in Subdivisions (1)-(3) of this subsection that further improve access for children enrolled in the medical assistance program;

(D) improvements in medical transportation;

(E) improvements such as the Medicaid Access Card that simplify access to medically necessary services and enhance scheduling and notification of required check-ups and follow-up care;

(F) appropriate efforts to provide specialty services in or near underserved areas, such as providing for regular, periodic clinics by specialists in communities that are closer to underserved areas than the specialists' regular offices; and

(G) other appropriate strategic initiatives to improve the access to medically necessary services in underserved areas of the state for children enrolled in the medical assistance program and covered by the Joint Motion;

(5) implementation of the judicially-approved Corrective Action Plans (\$113.4 million in All Funds including \$45 million in General Revenue); and

(6) reasonable variances in utilization or cost estimates of the court-ordered Corrective Action Plans.

(f) Notwithstanding any provision of any appropriating Act to the contrary, the Executive Commissioner is authorized to adjust staffing levels and to acquire capital items to the extent the Executive Commissioner determines is necessary to ensure compliance with the judicially-approved Corrective Action Plans, subject to the following requirements:

(1) staffing and capital equipment needs must be described in adequate detail in the plan submitted by the Executive Commissioner pursuant to Subsection (d) of this section, to the extent such needs are known at the time the plan is submitted; and

(2) to the extent such needs are not known at that time, the Executive Commissioner shall amend the plan and notify the Legislative Budget Board and the Office of the Governor not later than:

(A) the 30th day following the date the Executive Commissioner determines that additional staffing and capital items are required; and

(B) the 10th day before the date the number of FTEs are adjusted or capital equipment is acquired in a manner that differs from the original plan or an earlier amendment to the plan.

**SECTION 21. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: CPS REFORM.** (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the following amounts are appropriated to the Department of Family and Protective Services for the two-year period beginning on the effective date of this Act to initiate child protective services reforms relating to family group decision-making, in-home family support, redaction of adoption records, improvement of court services, tablet personal computers for conservatorship workers, and centralization of background and criminal history checks:

(1) \$1,502,423 is appropriated out of the general revenue fund; and

(2) \$2,214,557 in federal funds (TANF) is appropriated.

(b) In addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized to employ by other law during the state fiscal year ending August 31, 2007, the department may employ an additional 117 FTEs during the remainder of that period.

(c) In addition to the capital budget authority previously granted for the state fiscal biennium ending August 31, 2007, the Department of Family and Protective Services may use an additional \$2,033,837 in capital budget authority for programming expenses associated with providing tablet personal computers for conservatorship workers, child-care licensing staff, and residential child-care licensing staff.

**SECTION 22. DEPARTMENT OF AGING AND DISABILITY SERVICES: RESTORATION OF COMMUNITY CARE PROVIDER RATES TO FISCAL YEAR 2003 LEVELS.** The amount of \$10,814,194 is appropriated out of the general revenue fund and \$16,422,160 in federal funds is appropriated to the Department of Aging and Disability Services for the two-year period beginning June 1, 2007, for the purpose of restoring provider rates to fiscal year 2003 levels in programs for home and community-based services, in programs for community living assistance and support services (CLASS), in the Texas Home Living Waiver program, and in intermediate care facilities for the mentally retarded. The adjustment to provider rates for such services shall be effective January 1, 2007.

**SECTION 23. DEPARTMENT OF STATE HEALTH SERVICES: ANTIVIRALS FOR INFLUENZA PANDEMIC.** In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$11,000,000 is appropriated out of the general revenue fund to the Department of State Health Services for the two-year period beginning on the effective date of this Act for the purpose of purchasing antiviral drugs for use in the event of an influenza pandemic.

**SECTION 24. COMPTROLLER OF PUBLIC ACCOUNTS: SUPPORT FOR TAX ADMINISTRATION DUTIES AND STATEWIDE FISCAL RESPONSIBILITIES.** In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the amount of \$4,100,000 is appropriated out of the general revenue fund to the comptroller of public accounts for the state fiscal biennium ending August 31, 2009, for the purpose of supporting the comptroller's tax administration duties and statewide fiscal responsibilities.

**SECTION 25. GENERAL LAND OFFICE AND VETERANS' LAND BOARD: DERELICT STRUCTURE REMOVAL.** In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$2,000,000 is appropriated out of the general revenue-dedicated coastal protection account No. 27 to the General Land Office and Veterans' Land Board for the two-year period beginning on the effective date of this Act for the purpose of removing and disposing of the Zeus jack rig, an off-shore oil platform abandoned in the Freeport Channel.

**SECTION 26. SECRETARY OF STATE: COSTS OF MAY 12 CONSTITUTIONAL AMENDMENT ELECTION.** In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$5,000,000 is appropriated out of the general revenue fund to the secretary of state for the two-year period beginning on the effective date of this Act for the

purpose of reimbursing each county in this state for the expense incurred by the county in conducting the election held on May 12, 2007, at which a proposed amendment to the Texas Constitution was on the ballot.

**SECTION 27. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: HELOTES FIRE.** In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$2,800,000 is appropriated out of the general revenue-dedicated solid waste disposal fees account No. 5000 to the Texas Commission on Environmental Quality for the two-year period beginning on the effective date of this Act for the purpose of supporting efforts to extinguish the fire in or near the city of Helotes on property owned by H.L. Zumwalt Construction, Inc., that poses a potential threat to Edwards Aquifer groundwater.

**SECTION 28. TEXAS YOUTH COMMISSION: OPERATING EXPENSES.** In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$20,000,000 is appropriated out of the general revenue fund to the Texas Youth Commission for the two-year period beginning on the effective date of this Act for the purpose of providing for the agency's operating expenses and video surveillance needs. Notwithstanding any limitation on the capital budget authority of the Texas Youth Commission, the commission may expend the amount necessary from the appropriation made by this section to acquire needed video surveillance equipment.

**SECTION 29. DATA CENTER SERVICES.** (a) The following amounts are appropriated for the state fiscal biennium ending August 31, 2009, to the following agencies for the purpose of making payments for data center services:

(1) \$154,354 is appropriated out of the general revenue fund to the Railroad Commission of Texas;

(2) \$1,124,521 is appropriated out of the general revenue fund and an additional \$4,856,648 is appropriated out of general revenue dedicated accounts to the Texas Commission on Environmental Quality;

(3) \$381,705 is appropriated out of the general revenue fund, an additional \$17,699 is appropriated out of general revenue dedicated accounts, and \$1,937,066 in federal funds is appropriated to the Texas Workforce Commission;

(4) \$958,928 is appropriated out of the state highway fund to the Texas Department of Transportation;

(5) \$2,734,431 is appropriated out of general revenue dedicated accounts to the Parks and Wildlife Department;

(6) \$339,523 is appropriated out of the general revenue fund to the Texas State Library and Archives Commission;

(7) \$773,164 is appropriated out of the general revenue fund to the secretary of state;

(8) \$1,295,979 is appropriated out of the general revenue fund, \$136,277 in other funds is appropriated, and \$778,098 in federal funds is appropriated to the Texas Education Agency;

(9) \$552,478 is appropriated out of the general revenue fund, \$590,858 in other funds is appropriated, and \$10,995 in federal funds is appropriated to the Texas Higher Education Coordinating Board;

(10) \$519,429 is appropriated out of the general revenue fund to the Public Utility Commission of Texas;

(11) \$78,920 is appropriated out of the general revenue fund to the General Land Office;

(12) \$1,929,901 is appropriated out of the general revenue fund to the Office of the Attorney General;

(13) \$329,626 is appropriated out of the general revenue fund to the Texas Alcoholic Beverage Commission;

(14) \$147,631 is appropriated out of the general revenue fund to the Texas Department of Licensing and Regulation;

(15) \$2,466,681 is appropriated out of the general revenue fund to the Texas Water Development Board; and

(16) \$839,500 is appropriated out of the general revenue fund to the Texas Youth Commission.

(b) The amount of \$8,081,368 is appropriated out of the general revenue fund to the Department of Information Resources for the state fiscal year ending August 31, 2007, for the purpose of transferring funds to state agencies as necessary for use by the agencies in making payments for data center services.

(c) The following amounts are appropriated out of the general revenue fund to the Department of Information Resources for the purpose of paying one-time costs related to the data center services contract:

(1) in addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$32,335,000 is appropriated for the two-year period beginning on the effective date of this Act; and

(2) in addition to other amounts appropriated for all or part of the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the amount of \$34,385,000 is appropriated for the state fiscal year ending August 31, 2008, and the amount of \$9,935,000 is appropriated for the state fiscal year ending August 31, 2009.

(d) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Employees Retirement System for the state fiscal year ending August 31, 2007, are reduced by the following amounts to reflect decreased retirement program costs:

(1) appropriations out of the general revenue fund are reduced by \$221,782;

(2) appropriations out of general revenue dedicated accounts are reduced by \$58,608; and

(3) appropriations out of other funds are reduced by \$88,412.

(e) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Employees Retirement System for the state fiscal year ending August 31, 2007, are reduced by the following amounts to reflect decreased insurance program costs:

(1) appropriations out of the general revenue fund are reduced by \$487,921;

(2) appropriations out of general revenue dedicated accounts are reduced by \$128,937; and

(3) appropriations out of other funds are reduced by \$194,507.

(f) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Comptroller of Public Accounts for the state match for social security for the state fiscal year ending August 31, 2007, are reduced by the following amounts to reflect decreased social security costs:

(1) appropriations out of the general revenue fund are reduced by \$263,044;

(2) appropriations out of general revenue dedicated accounts are reduced by \$69,511; and

(3) appropriations out of other funds are reduced by \$104,861.

(g) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Comptroller of Public Accounts made by Section 13.17(b), Article IX, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act), for the state fiscal year ending August 31, 2007, are reduced by the following amounts to reflect decreased salary costs:

(1) appropriations out of the general revenue fund are reduced by \$140,729;

(2) appropriations out of general revenue dedicated accounts are reduced by \$37,189; and

(3) appropriations out of other funds are reduced by \$56,101.

(h) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Texas Department of Insurance for the state fiscal biennium ending August 31, 2009, are reduced by the following amounts to reflect decreased costs:

(1) appropriations out of the general revenue fund are reduced by \$912,610; and

(2) appropriations out of general revenue dedicated accounts are reduced by \$1,153,023.

(i) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Department of Family and Protective Services for the state fiscal biennium ending August 31, 2009, are reduced by the following amounts to reflect decreased costs:

(1) appropriations out of the general revenue fund are reduced by \$2,192,309; and

(2) federal funds appropriations are reduced by \$371,007.

(j) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Department of Public Safety for the state fiscal biennium ending August 31, 2009, are reduced by the following amounts to reflect decreased costs:

(1) appropriations out of the state highway fund are reduced by \$83,250; and

(2) appropriations out of general revenue dedicated accounts are reduced by \$141,750.

(k) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations to the Texas Building and Procurement Commission for the state fiscal biennium ending August 31, 2009, are reduced by the following amounts to reflect decreased costs:

(1) appropriations out of the general revenue fund are reduced by \$844,083;

(2) appropriations out of general revenue dedicated accounts are reduced by \$34,450; and

(3) appropriations out of other funds are reduced by \$289,273.

(l) As a result of reduced costs due to the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**), appropriations out of the general revenue fund to the Department of Agriculture for the state fiscal biennium ending August 31, 2009, are reduced by \$105,478 to reflect decreased costs.

(m) If this section makes an appropriation to an agency out of general revenue dedicated accounts or out of other funds, or reduces an agency's appropriation out of general revenue dedicated accounts or out of other funds, under circumstances in which more than one general revenue dedicated account or source of other funds could be involved, the comptroller with the assistance of the affected agency shall allocate the appropriation or reduction in appropriations among the dedicated accounts or sources of other funds according to:

(1) the amounts available in the affected accounts or from the sources of other funds; and

(2) the extent to which the programs supported by the dedicated accounts or sources of other funds are supported by the appropriation or, in the case of a reduction in appropriations, supported by the implementation of Chapter 1068, Acts of the 79th Legislature, Regular Session, 2005 (**HB 1516**).

(n)(1) Amounts appropriated by Subsection (c) of this section may be used only for one-time implementation costs directly related to consolidating data center services, such as costs for labor, hardware, software, software upgrades, travel, human resources expenses, moving and living expenses of transitioned employees, consulting, communications, inventory of in-scope equipment, and facilities renovations to consolidated data centers, customer data centers, and customer remote facilities.

(2) As necessary to maximize the receipt of federal funds, amounts appropriated by Subsection (c) of this section may be transferred by the Department of Information Resources to state agencies involved in the data center contract for use by the agencies only for the purpose stated by Subsection (c) of this section and this subsection. Notwithstanding any authority granted by this Act or a General Appropriations Act to transfer appropriated money between strategies, amounts appropriated by Subsection (c) of this section are not available for any purpose other than the purpose stated by Subsection (c) and this subsection.

(3) The Department of Information Resources may not spend amounts appropriated by Subsection (c) of this section and an agency to which the department transfers money under this subsection may not spend a transferred amount unless, more than 21 days before the department spends or transfers the money, as applicable, the department reports to the Legislative Budget Board and the Governor the intended use of the funds and, for money transferred to another agency under this subsection, the specific amounts proposed to be transferred. Amounts appropriated by Subsection (c) of this section may not be expended to the extent:

(A) the Governor issues a written disapproval of a proposed expenditure not later than the 21st business day after the date the Governor receives the report from the department concerning the proposed expenditure; or

(B) the Legislative Budget Board issues a written disapproval of a proposed expenditure not later than the 21st business day after the date the staff of the Legislative Budget Board concludes its review of the report from the department concerning the proposed expenditure and forwards the staff's conclusions or comments to the Chair of the House Appropriations Committee, Chair of the Senate Finance Committee, Speaker of the House of Representatives, and Lieutenant Governor.

(4) Amounts appropriated by Subsection (c) of this section may not be used by the department or another agency to pay for costs incurred by the department to administer and oversee the data center services contract.

SECTION 30. PREVIOUSLY AUTHORIZED DEFERRALS OF AUGUST 2007 PAYMENTS. (a) The following riders in Article II, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act) are repealed:

(1) Rider 66 following the appropriations to the Health and Human Services Commission;

(2) Rider 21 following the appropriations to the Department of Aging and Disability Services;

(3) Rider 48 following the appropriations to the Department of Aging and Disability Services; and

(4) Rider 25 following the appropriations to the Department of Family and Protective Services.

(b) The following unencumbered amounts appropriated to the Health and Human Services Commission for the state fiscal biennium ending August 31, 2007, are transferred as follows:

(1) the amount of \$122,701,559 in general revenue is transferred to the Department of Aging and Disability Services for expenditure by the department during the state fiscal year ending August 31, 2007, or if appropriate, during the state fiscal year ending August 31, 2008, in connection with making payments for August 2007 services; and

(2) the amount of \$12,792,244 in general revenue is transferred to the Department of Family and Protective Services for expenditure by the department during the state fiscal year ending August 31, 2007, or if appropriate, during the state fiscal year ending August 31, 2008, in connection with making payments for August 2007 services.

SECTION 31. TRANSFERS TO DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES FOR VOCATIONAL REHABILITATION. The unencumbered amount of \$1,541,628 in general revenue appropriated to the Health and Human Services Commission for the state fiscal biennium ending August 31, 2007, is transferred to the Department of Assistive and Rehabilitative Services for expenditure by the department during the two-year period beginning on the effective date of this Act for vocational rehabilitation.

SECTION 32. TRANSFERS TO DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES FOR SUPPLEMENTAL NEEDS. The unencumbered amount of \$13,047,000 in general revenue appropriated to the Health and Human Services Commission for the state fiscal biennium ending August 31, 2007, is transferred to the Department of Family and Protective Services for expenditure by the department during the two-year period beginning on the effective date of this Act for the purpose of making foster care and adoption subsidy payments.

SECTION 33. APPROPRIATION REDUCTION: TEACHER RETIREMENT SYSTEM, TRS-CARE. The unencumbered appropriations from the general revenue fund appropriated to the Teacher Retirement System for use during the state fiscal year ending August 31, 2007, by Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act) under Strategy A.3.1 for the Teacher Retirement System (Retiree Health - Supplemental Funds) are reduced by the amount of \$76,644,468.

SECTION 34. REDUCTION IN VETOED FUNDS APPROPRIATION. The appropriations made from general revenue by Section 13.18, Article IX, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act), are reduced by the amount of \$463,973,206.

SECTION 35. EFFECTIVE DATE. This Act takes effect immediately.

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

Amend **CSHB 15** (senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill immediately following existing SECTION 20 (page 7, between lines 17 and 18), renumber subsequent SECTIONS of the bill accordingly, and revise references to existing Section 20 in the following added SECTION as necessary to ensure that those references are to existing Section 20 of the bill in the event that existing Section 20 is renumbered:

SECTION \_\_\_\_\_. HEALTH AND HUMAN SERVICES COMMISSION: APPROPRIATION FOR *FREW V. HAWKINS* SETTLEMENT. (a) In this section, "*Frew v. Hawkins*" has the meaning assigned by Section 20 of this Act.

(b) The amounts appropriated by Subsection (c) of this section are contingent on applicable approval of the settlement in *Frew v. Hawkins* by the federal judiciary and are subject to Section 20 of this Act.

(c) In addition to amounts otherwise appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$706.7 million is appropriated out of the general revenue fund and the amount of \$1,073.2 million in federal funds is appropriated to the Health and Human Services Commission for the state fiscal biennium ending August 31, 2009, for the purpose of complying with the settlement in *Frew v. Hawkins*.

(2) Strike existing SECTION 7 of the bill (page 2, lines 26-33) and renumber subsequent SECTIONS accordingly.

(3) In SECTION 19 of the bill, between "out of the general revenue fund" and "to the Health and Human Services Commission" (page 5, line 17), insert "and the amount of \$165,300,000 in federal matching funds is appropriated".

(4) In existing SECTION 21 of the bill (page 7, line 35), strike "117" and substitute "245".

(5) Strike existing SECTION 22 of the bill (page 7, lines 44-55) and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. DEPARTMENT OF AGING AND DISABILITY SERVICES: RESTORATION OF COMMUNITY CARE AND ICF-MR PROVIDER RATES TO FISCAL YEAR 2003 LEVELS. (a) The following amounts are appropriated to the Department of Aging and Disability Services for the purpose of restoring provider rates to fiscal year 2003 levels in programs for home and community-based services, in programs for community living assistance and support services (CLASS), in the Texas Home Living Waiver program, and in intermediate care facilities for the mentally retarded (ICFs/MR):

(1) the amount of \$3,400,000 is appropriated out of the general revenue fund and \$5,150,000 in federal funds is appropriated for the two-year period beginning on the effective date of this Act; and

(2) the amount of \$10,800,000 is appropriated out of the general revenue fund and \$16,400,000 in federal funds is appropriated for the state fiscal biennium ending August 31, 2009.

(b) The adjustment to provider rates for services described by this section is effective January 1, 2007.

SECTION \_\_\_\_\_. DEPARTMENT OF AGING AND DISABILITY SERVICES: INCREASE HOME HEALTH PROVIDER RATES IN FISCAL YEAR 2009. The amount of \$18,000,000 is appropriated out of the general revenue fund and \$27,270,000 in federal funds is appropriated to the Department of Aging and Disability Services for the state fiscal year ending August 31, 2009, for the purpose of providing a rate increase to certain home health providers in fiscal year 2009. The Department of Aging and Disability Services may allocate these funds as appropriate among the following General Appropriations Act strategies:

- (1) Strategy A.2.1, Primary Home Care;
- (2) Strategy A.2.2, Community Attendant Services;
- (3) Strategy A.3.1, Community-based Alternatives; and
- (4) Strategy A.6.4, Promoting Independence Services.

(6) Strike existing SECTION 23 of the bill (page 7, lines 56-63) and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. DEPARTMENT OF STATE HEALTH SERVICES: ANTIVIRALS FOR INFLUENZA PANDEMIC. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the amount of \$11,000,000 is appropriated out of the general revenue fund to the Department of State Health Services for the state fiscal biennium ending August 31, 2009, for the purpose of purchasing antiviral drugs for use in the event of an influenza pandemic.

(7) Strike existing SECTION 24 of the bill (page 7, line 64 through page 8, line 3) and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. COMPTROLLER OF PUBLIC ACCOUNTS: SUPPORT FOR TAX ADMINISTRATION DUTIES AND STATEWIDE FISCAL RESPONSIBILITIES. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$4,100,000 is appropriated out of the general revenue fund to the comptroller of public accounts for the two-year period beginning on the effective date of this Act for the purpose of supporting the comptroller's tax administration duties and statewide fiscal responsibilities.

(8) In existing SECTION 30(b)(1) of the bill (page 12, line 1), strike "the amount of" and substitute "an amount not to exceed".

(9) In existing SECTION 30(b)(2) of the bill (page 12, line 7), strike "the amount of" and substitute "an amount not to exceed".

(10) In existing SECTION 32 of the bill (page 12, lines 22 and 23), strike "The unencumbered amount of" and substitute "An unencumbered amount not to exceed".

(11) In existing SECTION 34 of the bill (page 12, line 41), strike "\$463,973,206" and substitute "\$472,818,424".

(12) In existing SECTION 12 of the bill (page 3, line 32), strike "The University of Houston" and substitute "Sam Houston State University".

(13) In existing SECTION 10 of the bill (page 3, lines 3-9), strike proposed subsection (b) and substitute:

(b) The appropriation made by Subsection (a) of this section is contingent upon the development of a suitable plan of reorganization approved by the Legislative Budget Board and the Governor or the placement of the university under conservatorship as defined by Government Code Chapter 2104.

(14) In existing SECTION 25 of the bill on page 8, line 12 insert "The agency shall seek to recover all expenses from the scrap value and or the owner of the structure" after the period.

(15) In existing SECTION 21 of the bill on line 28 of page 7 strike "\$1,502,423" and substitute "\$1,952,114".

(16) In existing SECTION 21 of the bill on line 30 of page 7 strike "\$2,214,557" and substitute "\$3,383,451".

(17) In existing SECTION 21 of the bill on line 40 of page 7 strike "\$2,033,837" and substitute "\$2,555,837".

(18) In existing SECTION 29 of the bill strike subsection (n) (page 11, line 10 through line 54) of the bill and substitute the following:

(n) The following amounts are appropriated for the state fiscal biennium ending August 31, 2009, to the following agencies for the purpose of making payments for data center consolidation hardware upgrades and physical transfer of equipment:

(1) \$236,000 is appropriated out of the general revenue fund to the Railroad Commission of Texas;

(2) \$108,858 is appropriated out of the general revenue fund and an additional \$470,142 is appropriated out of general revenue dedicated accounts to the Texas Commission on Environmental Quality;

(3) \$226,919 is appropriated out of the general revenue fund, an additional \$10,522 is appropriated out of general revenue dedicated accounts, and \$1,151,559 in federal funds is appropriated to the Texas Workforce Commission;

(4) \$214,000 is appropriated out of general revenue dedicated accounts to the Parks and Wildlife Department;

(5) \$217,369 is appropriated out of the general revenue fund, and an additional \$274,631 is appropriated out of general revenue dedicated accounts to the Texas Department of Insurance;

(6) \$44,000 is appropriated out of the general revenue fund to the Texas State Library and Archives Commission;

(7) \$96,000 is appropriated out of the general revenue fund to the Secretary of State;

(8) \$371,424 is appropriated out of the general revenue fund, \$39,432 in other funds is appropriated, and \$225,144 in federal funds is appropriated to the Texas Education Agency;

(9) \$69,878 is appropriated out of the general revenue fund, \$74,732 in other funds is appropriated, and \$1,390 in federal funds is appropriated to the Texas Higher Education Coordinating Board;

(10) \$23,000 is appropriated out of the general revenue fund to the Public Utility Commission of Texas;

(11) \$1,980 is appropriated out of the general revenue fund to the General Land Office;

(12) \$28,350 is appropriated out of the general revenue dedicated accounts, and \$16,650 in other funds is appropriated to the Department of Public Safety;

(13) \$141,000 is appropriated out of the general revenue fund to the Office of the Attorney General;

(14) \$48,000 is appropriated out of the general revenue fund to the Texas Alcoholic Beverage Commission;

(15) \$29,767 is appropriated out of the general revenue fund, an additional \$1,195 is appropriated out of general revenue dedicated accounts, and \$10,038 in other funds is appropriated to the Texas Building and Procurement Commission;

(16) \$126,582 is appropriated out of the general revenue fund to the Texas Department of Agriculture;

(17) \$13,000 is appropriated out of the general revenue fund to the Texas Department of Licensing and Regulation;

(18) \$83,000 is appropriated out of the general revenue fund to the Texas Water Development Board; and

(19) \$138,000 is appropriated out of the general revenue fund to the Texas Youth Commission.

(19) Add the following appropriately numbered SECTION to the bill immediately following existing SECTION 34 and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. DEPARTMENT OF AGING AND DISABILITY SERVICES: REDUCTION IN CERTAIN SUPPLEMENTAL APPROPRIATIONS. The appropriations made from general revenue by Section 5, Chapter 1362, Acts of the 79th Legislature, Regular Session, 2005 (**HB 10**), are reduced by the amount of \$30,000,000.

SECTION \_\_\_\_\_. PRAIRIE VIEW A&M UNIVERSITY: APPROPRIATION FOR ACADEMIC DEVELOPMENT INITIATIVE. (a) In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the following amounts are appropriated out of the general revenue fund to Prairie View A&M University for the purpose of funding the Academic Development Initiative:

(1) 5,000,000 is appropriated for the state fiscal year ending August 31, 2008; and

(2) \$5,000,000 and any unexpended balance of the amount appropriated under Subdivision (1) of this subsection are appropriated for the state fiscal year ending August 31, 2009.

(b) The amounts appropriated by Subsection (a) of this section shall be used for:

- (1) proven academic success programs;
- (2) existing graduate programs;
- (3) undergraduate education; and
- (4) initiatives to target enrollment growth.

(c) Prairie View A&M University and Texas A&M University System shall jointly create and submit an accountability report outlining use of these funds by November 1 of each fiscal year to the Texas A&M University System Board of Regents, the Texas Higher Education Coordinating Board, the Legislative Budget Board, and the Governor. This accountability report shall set forth goals to be achieved with the Academic Development Initiative funding, establish milestones and timelines showing progress toward meeting those goals. For milestones that are not met, the report will include recommended actions to achieve the milestones or recommended changes to more efficiently meet the goals of the Academic Development Initiative.

SECTION \_\_\_\_\_. UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON: INTERRUPTIONS CAUSED BY HURRICANE RITA. (a) In addition to other amounts appropriated for the two year period beginning the effective date of this Act, that may be used for this purpose, the amount of \$13,100,000 is appropriated out of the general revenue fund to The University of Texas Medical Branch at Galveston for two year period beginning the effective

date of this Act, for the purpose of reimbursing the institution for nonreimbursed losses resulting from interruptions in services and operations caused by Hurricane Rita.

(b) It is the intent of the legislature that The University of Texas Medical Branch at Galveston use the money appropriated by Subsection (a) of this section in equal amounts in each fiscal year of the state fiscal biennium for which the money is appropriated.

SECTION \_\_\_\_\_. UNIVERSITY OF HOUSTON: FINANCIAL NEEDS OF HURRICANE KATRINA VICTIMS. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$2,550,000 is appropriated out of the general revenue fund to the University of Houston for the two-year period beginning on the effective date of this Act, for the purpose of meeting financial needs of 930 students enrolled at the university who were victims of Hurricane Katrina.

SECTION \_\_\_\_\_. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: TARRANT COUNTY WALKER BRANCH FACILITY REMEDIATION. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$1,500,000 is appropriated out of the general revenue-dedicated solid waste disposal fees account No. 5000 to the Texas Commission on Environmental Quality for the two-year period beginning on the effective date of this Act for the purpose of removing solid waste and recycling debris from the Walker Branch facility in Fort Worth.

SECTION \_\_\_\_\_. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: CONTINGENCY APPROPRIATION. Contingent on **SB 1604** or similar legislation being enacted by the 80th Legislature, Regular Session, 2007, and becoming law with immediate effect, the amount of \$200,000 is appropriated, in addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, to the Texas Commission on Environmental Quality out of the waste management account (GR Dedicated Account No. 0549) for the two-year period beginning on the effective date of this Act for the purpose of implementing that legislation.

SECTION \_\_\_\_\_. DEPARTMENT OF STATE HEALTH SERVICES: HARRIS COUNTY PSYCHIATRIC HOSPITAL. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the amount of \$7,000,000 is appropriated out of the general revenue fund to the Department of State Health Services for the state fiscal biennium ending August 31, 2009, for the purpose of providing for the operations of The University of Texas Harris County Psychiatric Center.

SECTION \_\_\_\_\_. DEPARTMENT OF STATE HEALTH SERVICES: INFORMATION RESOURCES TECHNOLOGIES. (a) Notwithstanding the limitations of Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act), the Department of State Health Services shall transfer \$9,700,000 in general revenue funds appropriated to the department by that Act in Strategy A.3.3, Kidney Health Care, to Strategy F.2.1, Capital

Items-Public Health. The department shall expend the funds transferred by this section during the state fiscal year ending August 31, 2007, on information technology projects.

(b) The capital budget authority granted for the state fiscal biennium ending August 31, 2007, to the Department of State Health Services by other law is increased by \$9,700,000 for that biennium for the acquisition of information resources technologies.

SECTION \_\_\_\_\_. PUBLIC UTILITY COMMISSION: SYSTEM BENEFIT FUND. In addition to other amounts appropriated for the two year period beginning the effective date of this Act that may be used for this purpose, the amount of \$30,000,000 is appropriated out of the system benefit fund (GR Dedicated Account No. 5100) to the Public Utility Commission for the purpose of providing for the low income discount program.

SECTION \_\_\_\_\_. HEALTH AND HUMAN SERVICES COMMISSION: COMMUNITY-BASED PREVENTION AND INTERVENTION PROGRAMS. In addition to other amounts appropriated for the two year period beginning the effective date of this Act, that may be used for this purpose, the amount of \$4,000,000 is appropriated from the general revenue fund to the Health and Human Services Commission for the purpose of providing one time facility start up funds for a settlement house in northeast Houston. The funding is contingent on Harris County providing the operating costs for the facility and on the land for the facility being donated.

SECTION \_\_\_\_\_. ANGELO STATE UNIVERSITY: UTILITIES. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$50,000 is appropriated out of the general revenue fund to Angelo State University for the two-year period beginning on the effective date of this Act for the purpose of making utility payments.

SECTION \_\_\_\_\_. HEALTH AND HUMAN SERVICES COMMISSION: REDUCTION IN CHILDREN'S HEALTH INSURANCE PROGRAM. The unencumbered appropriations from the general revenue fund appropriated to the Health and Human Services Commission for use during the fiscal year ending August 31, 2009, by **HB 1**, Eightieth Legislature, Regular Session, 2007, under Strategy C.1.1. for the Children's Health Insurance Program are reduced by the amount of \$15,700,000. Additionally, federal funds are reduced by an amount of \$40,400,000 under strategy C.1.1, CHIP for the fiscal year ending August 31, 2009.

SECTION \_\_\_\_\_. APPROPRIATION REDUCTION: TEXAS DEPARTMENT OF CRIMINAL JUSTICE The unencumbered appropriations from the general revenue fund appropriated to the Texas Department of Criminal Justice for use during the fiscal biennium ending August 31, 2009, by **HB 1**, Eightieth Legislature, Regular Session, 2007, under Strategy C.1.6., Institutional Operations and Maintenance, are reduced by the amount of \$27,000,000.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 15** (senate committee printing) as follows:

(1) In existing SECTION 9 of the bill (page 2, lines 53-57), strike proposed subsection (b) and substitute:

(b) The appropriation made by Subsection (a) of this section is contingent upon the development of a suitable plan of reorganization approved by the Legislative Budget Board and the Governor or the placement of the university under conservatorship as defined by Government Code Chapter 2104.

**Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 15** (senate committee printing) as follows:

(1) Add the following SECTION, numbered appropriately:

SECTION \_\_\_\_\_. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS: WEATHERIZATION ASSISTANCE. In addition to other amounts appropriated to the Texas Department of Housing and Community Affairs for the state fiscal biennium ending August 31, 2007, there is appropriated to that department for the two-year period beginning on the effective date of this Act, for the purpose of weatherization assistance under Section 39.905, Utilities Code, the estimated amount of \$10,000,000 in receipts derived from orders of the Public Utility Commission of Texas that are designated for weatherization assistance in accordance with Section 39.905, Utilities Code. The amounts appropriated include all unexpended and unobligated amounts derived from those orders and received by the Texas Department of Housing and Community Affairs for that purpose before the effective date of this Act and all amounts received by the department derived from those orders for that purpose during the two-year period beginning on the effective date of this Act.

(2) Renumber subsequent SECTIONS of the bill accordingly.

**Senate Amendment No. 4 (Senate Floor Amendment No. 4)**

Amend **CSHB 15** by striking second reading floor amendment No. 4 (Carona).

**HB 1565 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1565**, A bill to be entitled An Act relating to the governing body, boundaries, and functions of the Bexar Metropolitan Water District.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1565**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1565**: Puente, chair; Leibowitz, Guillen, Flores, and Corte.

**HB 1751 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1751**, A bill to be entitled An Act relating to the imposition and use of a fee on certain sexually oriented businesses.

Representative Cohen moved to concur in the senate amendments to **HB 1751**.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE GEREN: Who's the information officer of the house?

SPEAKER: You need to check with the chief clerk's office. Are you talking about who's—

GEREN: Who's the information officer for the house? To whom would I have to deliver a request for the letter of resignation from Ms. Denise Davis?

SPEAKER: That would be the chief clerk's office, I'm sorry.

GEREN: And who appoints the chief clerk? Does he also serve at the will of the speaker?

SPEAKER: That's correct.

**REMARKS ORDERED PRINTED**

Representative Castro moved to print remarks between Speaker Craddick and Representative Geren.

The motion prevailed.

**HB 1751 - (consideration continued)**

A record vote was requested.

The motion to concur in senate amendments to **HB 1751** prevailed by (Record 1874): 112 Yeas, 21 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Berman; Bohac; Bolton; Bonnen; Burnam; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hartnett; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; Keffer; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Mowery; Murphy; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Otto; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Anderson; Aycock; Brown, B.; Brown, F.; Crabb; Dutton; Elkins; Flynn; Hancock; Hardcastle; Harper-Brown; Isett; Macias; Miller; Morrison; O'Day; Orr; Paxton; Riddle; Taylor; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Chisum; Creighton; Crownover; Gallego; Hamilton; Harless; Heflin; Hilderbran; Howard, C.; King, P.; Moreno; Parker; Smith, W.; Talton; Veasey.

### STATEMENTS OF VOTE

When Record No. 1874 was taken, I was absent because of important business in the district. Had I been present I would have voted no.

Harless

When Record No. 1874 was taken, my vote failed to register. I would have voted yes.

Hilderbran

When Record No. 1874 was taken, I was in the house but away from my desk. I would have voted yes.

C. Howard

I was shown voting yes on Record No. 1874. I intended to vote no.

Merritt

I was shown voting no on Record No. 1874. I intended to vote yes.

Taylor

When Record No. 1874 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

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

Amend **HB 1751** (House committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 47.001 through 47.004, Business & Commerce Code, are designated as Subchapter A, Chapter 47, Business & Commerce Code, and a heading for Subchapter A is added to read as follows:

SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

SECTION 2. Section 47.001, Business & Commerce Code, is amended to read as follows:

Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Sex offender" means a person who has been convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under Chapter 62, Code of Criminal Procedure.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

SECTION 3. Chapter 47, Business & Commerce Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES

Sec. 47.051. DEFINITIONS. In this subchapter:

(1) "Nude" means:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that:

(A) provides for an audience of two or more individuals live nude entertainment or live nude performances; and

(B) authorizes on-premises consumption of alcoholic beverages, regardless of whether the consumption of alcoholic beverages is under a license or permit issued under the Alcoholic Beverage Code.

Sec. 47.052. FEE BASED ON ADMISSIONS; RECORDS. (a) A fee is imposed on a sexually oriented business in an amount equal to \$5 for each entry by each customer admitted to the business.

(b) A sexually oriented business shall record daily in the manner required by the comptroller the number of customers admitted to the business. The business shall maintain the records for the period required by the comptroller and make the records available for inspection and audit on request by the comptroller.

(c) This section does not require a sexually oriented business to impose a fee on a customer of the business. A business has discretion to determine the manner in which the business derives the money required to pay the fee imposed under this section.

Sec. 47.053. REMISSION OF FEE; SUBMISSION OF REPORTS. Each quarter, a sexually oriented business shall:

(1) remit the fee imposed by Section 47.052 to the comptroller in the manner prescribed by the comptroller; and

(2) file a report with the comptroller in the manner and containing the information required by the comptroller.

Sec. 47.054. ALLOCATION OF CERTAIN REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the first \$25 million received from the fee imposed under this subchapter in a state fiscal biennium to the credit of the sexual assault program fund.

Sec. 47.055. ALLOCATION OF ADDITIONAL REVENUE. (a) The comptroller shall deposit all amounts received from the fee imposed under this subchapter after the first \$25 million in a state fiscal biennium in the Texas health opportunity pool established under Subchapter N, Chapter 531, Government Code. Money deposited in the pool under this section may be used only to

provide health benefits coverage premium payment assistance to low-income persons through a premium payment assistance program developed under that subchapter.

(b) This section takes effect only if SB 10, Acts of the 80th Legislature, Regular Session, 2007, becomes law and the Texas health opportunity pool is established under that Act. If that Act does not become law, or that Act becomes law but the pool is not established, this section has no effect, and the revenue is deposited as provided by Section 47.0551.

Sec. 47.0551. ALLOCATION OF ADDITIONAL REVENUE. (a) The comptroller shall deposit all amounts received from the fee imposed under this subchapter after the first \$25 million in a state fiscal biennium to the credit of the premium payment assistance account. The premium payment assistance account is an account in the general revenue fund that may be appropriated to the Health and Human Services Commission only to provide health benefits coverage premium payment assistance to low-income persons through a program developed by the commission.

(b) This section takes effect only if SB 10, Acts of the 80th Legislature, Regular Session, 2007, does not become law, or that Act becomes law, but the Texas health opportunity pool is not established under that Act. If that Act becomes law and the pool is established, this section has no effect, and the revenue is deposited as provided by Section 47.055.

Sec. 47.056. ADMINISTRATION, COLLECTION, AND ENFORCEMENT. The provisions of Subtitle B, Title 2, Tax Code, apply to the administration, payment, collection, and enforcement of the fee imposed by this chapter.

SECTION 4. Sections 420.005(a) and (b), Government Code, are amended to read as follows:

(a) The attorney general may award grants to programs described by Section 420.008 [~~for maintaining or expanding existing services~~]. A grant may not result in the reduction of the financial support a program receives from another source.

(b) The attorney general may by rule require that to [~~to~~] be eligible for a grant, certain programs [~~a program~~] must provide at a minimum:

- (1) a 24-hour crisis hotline;
- (2) crisis intervention;
- (3) public education;
- (4) advocacy and accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts for survivors and their family members; and
- (5) crisis intervention volunteer training.

SECTION 5. Sections 420.008(b) and (c), Government Code, are amended to read as follows:

(b) The fund consists of fees collected under:

- (1) Section 19(e), Article 42.12, Code of Criminal Procedure;
- (2) [~~and~~] Section 508.189, Government Code; and
- (3) Subchapter B, Chapter 47, Business & Commerce Code, and deposited under Section 47.054.

(c) The legislature may appropriate money deposited to the credit of the fund only to:

- (1) the attorney general, for:
  - (A) sexual violence awareness and prevention campaigns;
  - (B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault;
  - (C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;
  - (D) grants to increase the level of sexual assault services in this state;
  - (E) grants to support victim assistance coordinators;
  - (F) grants to support technology in rape crisis centers;
  - (G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence; and
  - (H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;
- (2) the Department of State Health Services, to measure the prevalence of sexual assault in this state;
- (3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;
- (4) Texas State University, for training and technical assistance to independent school districts for campus safety;
- (5) the office of the governor, for grants to support sexual assault prosecution projects;
- (6) the Department of Public Safety, to support sexual assault training for commissioned officers;
- (7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;
- (8) the Texas Department of Criminal Justice:
  - (A) for pilot projects for monitoring sex offenders on parole; and
  - (B) for increasing the number of adult incarcerated sex offenders receiving treatment;
- (9) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment;
- (10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 47.052, Business & Commerce Code;  
and

(11) the supreme court, to be transferred to the Texas Equal Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law [to finance the grant program created by this chapter].

SECTION 6. Subchapter A, Chapter 420, Government Code, is amended by adding Section 420.015 to read as follows:

Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS REGULATIONS. The legislature may appropriate funds for a third-party assessment of the sexually oriented business industry in this state and provide recommendations to the legislature on how to further regulate the growth of the sexually oriented business industry in this state.

SECTION 7. (a) The Sexual Assault Advisory Council is established to:

- (1) serve as an information clearinghouse and informal coordinator of existing and future sexual assault programming efforts at state and local levels;
- (2) report to the governor and the 81st Legislature the results of actions taken by the 80th Legislature on any gaps with respect to research, prevention, response and other victims' services, adjudication, and incarceration at state and local levels;
- (3) develop recommendations for appropriate performance measures that enable the governor and the legislature to biennially assess and respond to the status of sexual assault in this state; and
- (4) report to the 81st Legislature on the effectiveness of appropriations made in this Act and other sexual assault legislation passed by the 80th Legislature.

(b) The Sexual Assault Advisory Council is composed of representatives designated by the attorney general from state agencies that receive sexual assault-related appropriations in the General Appropriations Act.

(c) The legislature intends that agencies receiving sexual assault-related appropriations coordinate with the Sexual Assault Advisory Council to provide answers for:

- (1) how prevalent is sexual assault in Texas, and why;
- (2) how to reduce the recidivism of known sex offenders;
- (3) how to increase the reporting of sexual assault to law enforcement;
- (4) how to increase conviction and prosecution rates of sexual assault;
- (5) how to identify the geographic areas in this state with higher rates of sexual assault and how to coordinate delivering resources to these areas; and
- (6) how to convey that assistance is available for all victims of sexual assault and how to ensure that residents of this state know how to obtain assistance if they have been sexually assaulted.

SECTION 8. The fee imposed by Section 47.052, Business & Commerce Code, as added by this Act, applies only to a sexually oriented business with respect to the admission by the business of customers on or after the effective date of this Act.

SECTION 9. This Act takes effect January 1, 2008.

**Senate Amendment No. 2 (Senate Floor Amendment No. 4)**

Amend **HB 1751** (senate committee printing) as follows and adjust accordingly:

On page 2, line 22, after "assault" insert "and programs for victims of human trafficking"

On page 2, line 33, after "state" and before";" insert "and for grants to support programs assisting victims of human trafficking;"

On page 2, line 41, after "assault" insert "and human trafficking"

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE HILL: We are approaching the hour of midnight. Will you allow us to suspend the rules so that we can continue to do our work, or will you shut us down at twelve o'clock?

SPEAKER: Mr. Hill, we will have to take that bill by bill, and that will be up to the house.

HILL: But that's your intent, to let us continue on?

SPEAKER: Of the 11 bills that were eligible, that's correct.

HILL: Up until when?

SPEAKER: There were 11 bills eligible to be done between when we started and midnight. Those bills, yes, sir.

HILL: It is right now midnight.

SPEAKER: By that clock it's two minutes until, Mr. Hill.

HILL: Which clock is the official clock?

SPEAKER: I'm not sure, Mr. Hill. I believe the one behind you, they said, Mr. Hill. It doesn't really matter, I'm not going to argue with you over it.

HILL: Alright. So what you're going to do is take care of Ms. Morrison's bill, which is before us right now.

SPEAKER: If we get to it before that clock strikes one more minute, and then we can do these others one by one if members want to suspend to bring them up.

HILL: Or we can suspend on Ms. Morrison's bill if we don't make that time.

SPEAKER: That's correct.

HILL: Okay. Well, let's go ahead and do that.

SPEAKER: You want to take a vote on Ms. Morrison's bill?

HILL: I don't mind. You had made a commitment that we would do this one bill at a time, and so now the next bill up is **HB 3838**, is that correct?

SPEAKER: Well, we would be back on **HB 3826** because we didn't pass it, Mr. Hill.

HILL: So we're going to suspend the rules?

SPEAKER: I'm going to recognize Ms. Morrison for that purpose and then the members can decide. We'll just go down those 11 bills that we had when we started out. We'll be glad to give you a copy of the list if anybody would like one.

HILL: I think I have it here.

### **HB 3826 - RULES SUSPENDED**

Representative Morrison moved to suspend all necessary rules to consider **HB 3826** with senate amendments at this time.

A record vote was requested.

The motion prevailed by (Record 1875): 144 Yeas, 1 Nays, 1 Present, not voting.

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

Nays — Castro.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Harless; Moreno; Talton.

### **HB 3826 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 3826**, A bill to be entitled An Act relating to high school curriculum requirements for admission to public institutions of higher education and to the admission to public institutions of higher education of the children of certain public servants killed in the line of duty.

Representative Morrison moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3826**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3826**: Morrison, chair; F. Brown, McCall, D. Howard, and Patrick.

### **HB 3873 - RULES SUSPENDED**

Representative Menendez moved to suspend all necessary rules to consider **HB 3873** with senate amendments at this time.

A record vote was requested.

The motion prevailed by (Record 1876): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Dutton; Hamilton; Harless; Howard, C.; Moreno; Mowery; Talton.

### **HB 3873 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 3873**, A bill to be entitled An Act relating to the administration of the Texas Department of Housing and Community Affairs; providing a penalty.

Representative Menendez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3873**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3873**: Menendez, chair; Bailey, Chisum, R. Cook, and Talton.

### **HB 4032 - RULES SUSPENDED**

Representative R. Cook moved to suspend all necessary rules to consider **HB 4032** with senate amendments at this time.

A record vote was requested.

The motion prevailed by (Record 1877): 145 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Chavez; Harless; Moreno.

### **HB 4032 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative R. Cook called up with senate amendments for consideration at this time,

**HB 4032**, A bill to be entitled An Act relating to the creation of the Colorado County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

Representative R. Cook moved to concur in the senate amendments to **HB 4032**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1878): 143 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Gallego; Harless; Moreno; Morrison; Riddle.

#### STATEMENT OF VOTE

When Record No. 1878 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

#### Senate Committee Substitute

**CSHB 4032**, A bill to entitled An Act relating to the creation of the Colorado County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8824 to read as follows:

CHAPTER 8824. COLORADO COUNTY GROUNDWATER  
CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8824.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Colorado County Groundwater Conservation District.

Sec. 8824.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Colorado County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8824.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2011:

(1) the district is dissolved on September 1, 2011, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Colorado County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2013.

Sec. 8824.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Colorado County, Texas, except that the district does not include any territory that is included in the boundaries of the Coastal Bend Groundwater Conservation District as of the effective date of the Act enacting this chapter.

Sec. 8824.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to Colorado County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

Sec. 8824.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8824.007-8824.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8824.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than September 11, 2007, the Colorado County Commissioners Court shall appoint seven temporary directors. Temporary directors must meet the qualifications provided by Section 8824.052 for permanent directors.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall select a qualified person to fill the vacancy. If, at any time, there are three or more vacancies on the temporary board, the Colorado County Commissioners Court shall appoint a qualified person to fill each vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time initial directors are elected as provided by Section 8824.023; or

(2) the date this chapter expires under Section 8824.003.

Sec. 8824.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. (a) As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Colorado County Courthouse.

(b) At the meeting, the temporary directors shall elect a presiding officer, assistant presiding officer, and secretary from among the temporary directors.

Sec. 8824.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall hold an election to confirm the creation of the district and elect seven initial directors.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the Colorado County Groundwater Conservation District and the levy of an ad valorem tax in the district at a rate not to exceed three cents for each \$100 of assessed valuation."

(e) The temporary board of directors may include any other proposition on the ballot that the directors determine necessary.

(f) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary board of directors may hold a subsequent confirmation election. The subsequent election may not be held before the month in which the first anniversary of the date on which the preceding election was held occurs.

(g) The initial directors for positions one, three, five, and seven shall serve until the first regularly scheduled election of directors under Section 8824.053. The initial directors for the remaining positions shall serve until the second regularly scheduled election of directors under Section 8824.053.

Sec. 8824.024. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2013.

[Sections 8824.025-8824.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8824.051. DIRECTORS; TERMS. (a) The district is governed by a board of seven directors.

(b) Directors serve staggered four-year terms.

(c) A director may serve only two consecutive terms.

Sec. 8824.052. METHOD OF ELECTING DIRECTORS. (a) Except as provided by Subsection (e), the directors of the district shall be elected as follows:

(1) the directors for positions 1 through 4 must reside in Colorado County Commissioners Precincts 1 through 4, respectively, and are elected by the voters of the applicable county commissioners precinct; and

(2) the directors for positions 5 through 7 must reside in the cities of Columbus, Eagle Lake, and Weimar, respectively, and are elected at large by the voters of the district.

(b) To be eligible to be a candidate for or to serve as a director, a person must be a registered voter.

(c) A person shall indicate on the application for a place on the ballot the position on the board to which the person seeks to be elected.

(d) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

(e) If territory is added to the district, the board shall change the method of electing directors as necessary to ensure that all district voters are fairly represented. A change in the method of electing directors adopted by the board under this subsection shall be implemented at the next directors' election at which the change can be implemented consistently with the Election Code and federal law.

Sec. 8824.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

Sec. 8824.054. DIVISION OF MUNICIPALITY. The provision of Section 36.059(b), Water Code, concerning the division of a municipal corporation among precincts does not apply to an election under this chapter.

Sec. 8824.055. COMPENSATION; REIMBURSEMENT. (a) Notwithstanding Section 36.060, Water Code, a director is not entitled to receive compensation for performing the duties of a director.

(b) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the district.

Sec. 8824.056. VACANCY. A vacancy in the office of director shall be filled by appointment of the board. The appointed director serves only for the remainder of the unexpired term to which the director was appointed.

[Sections 8824.057-8824.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8824.101. RESTRICTIONS ON GENERAL POWERS. Sections 36.103 and 36.104, Water Code, do not apply to the district.

Sec. 8824.102. PROHIBITION ON REQUIRING METERING OF EXEMPT WELLS. The district may not require meters on wells exempt from permitting or regulation under Section 36.117, Water Code.

Sec. 8824.103. RIGHT TO ENTER LAND. (a) A district director or employee or a person who contracts with the district may enter private property on behalf of the district without obtaining the permission of the property owner only if:

(1) the purpose of the entry is to conduct an investigation of a violation of or enforce a district rule; and

(2) the property owner is provided reasonable notice before the property is entered.

(b) A district director or employee or a person who contracts with the district must obtain the permission of a property owner before entering private property on behalf of the district for any purpose other than the purposes described by Subsection (a)(1).

Sec. 8824.104. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8824.105. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, notwithstanding Section 8824.102, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8824.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8824.107-8824.150 reserved for expansion]

**SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS**

Sec. 8824.151. REVENUE. (a) To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) impose ad valorem taxes at a rate not to exceed three cents on each \$100 of assessed valuation of taxable property in the district; or

(2) assess reasonable fees for:

(A) services provided;

(B) water withdrawn from each well that is not exempt from district permitting or regulation; or

(C) groundwater exported from the district.

(b) In determining a tax rate under Subsection (a)(1), the board shall take into consideration the income of the district from sources other than taxation.

Sec. 8824.152. GRANTS, GIFTS, AND DONATIONS. The district may solicit and accept grants, gifts, and donations from any public or private source.

[Sections 8824.153-8824.200 reserved for expansion]

**SUBCHAPTER E. DISSOLUTION**

Sec. 8824.201. SUBCHAPTER CUMULATIVE. The provisions of this subchapter are cumulative of the provisions of Subchapter I, Chapter 36, Water Code.

Sec. 8824.202. DISSOLUTION BY ELECTION. (a) After January 1, 2016, the board shall order an election on the question of dissolving the district if the board receives a petition requesting that an election be held for that purpose that is signed by at least 15 percent of the district's registered voters.

(b) Not later than the 30th day after the date the board receives the petition, the directors shall:

(1) validate the signatures on the petition; and

(2) if the signatures are validated, order an election on the next uniform election date under Section 41.001, Election Code.

(c) The order calling the election must state the nature of the election, including the proposition that is to appear on the ballot.

Sec. 8824.203. NOTICE OF ELECTION. Notice of an election under this subchapter must be provided by posting a copy of the order calling the election in at least one conspicuous place for at least 10 days before the day of the election:

(1) at the Colorado County Courthouse;

(2) in each Colorado County commissioners precinct; and

(3) in the cities of Columbus, Eagle Lake, and Weimar.

Sec. 8824.204. BALLOT. The ballot for an election under this subchapter must be printed to permit voting for or against the proposition: "The dissolution of the Colorado County Groundwater Conservation District."

Sec. 8824.205. ELECTION RESULTS; DISPOSITION OF ASSETS. If a majority of the votes in an election under this subchapter favor dissolution:

(1) the board shall find that the district is dissolved; and

(2) Section 36.310, Water Code, applies for the purpose of disposition of the district's assets.

SECTION 2. Chapter 303, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 4032** (senate committee printing) by striking Sec. 8824.005 (page 1, line 46 through Page 1, line 59) and renumbering subsequent Sections accordingly.

#### **HB 3678 - MOTION TO SUSPEND RULES**

Representative C. Howard moved to suspend all necessary rules to consider **HB 3678** with senate amendments at this time.

A record vote was requested.

The motion was lost (not receiving the necessary two-thirds vote) by (Record 1879): 93 Yeas, 50 Nays, 1 Present, not voting. (The vote was reconsidered on May 26, and the house concurred in senate amendments by Record 1915.)

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dutton; Eissler; Elkins; England; Farabee; Flynn; Gattis; Geren; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Quintanilla; Rodriguez; Rose; Strama; Thompson; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch.

Absent — Harless; Moreno; Peña; Raymond; Straus.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 1879. I intended to vote yes.

Bolton

When Record No. 1879 was taken, I was absent because of important business in the district. Had I been present I would have voted yes.

Harless

I was shown voting no on Record No. 1879. I intended to vote yes.

Lucio

When Record No. 1879 was taken, my vote failed to register. I would have voted yes.

Raymond

I was shown voting no on Record No. 1879. I intended to vote yes.

Rose

### LEAVE OF ABSENCE GRANTED

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

Harless on motion of Darby.

### PARLIAMENTARY INQUIRY

REPRESENTATIVE T. SMITH: Mr. Speaker, is it your intent, at some reasonable period of time, to release the resignation letter of Denise Davis, in light of the fact open records laws provide criminal sanctions for failure to release a public document in a reasonable period of time?

SPEAKER: That letter will be available to you, Mr. Smith, upon adjournment in the clerk's office.

T. SMITH: Thank you, Mr. Speaker. It's my understanding, Mr. Speaker, that the position of the chair is that the procedure for removal of the speaker is the same procedure that applies to the removal of the governor and lieutenant governor from elected office, even though the speaker would retain his position of state

representative and could, in fact, run again for the office of speaker of the Texas House of Representatives. Is that correct?

SPEAKER: No, it's not correct.

T. SMITH: Okay, and how is that not correct?

SPEAKER: There are several different competing provisions in the Texas Constitution. Some are specific to the executive branch, some are specific to the legislative branch, and some are applicable to all elected officials.

T. SMITH: How is the provision for removing the speaker from the office of speaker different from the procedure for removing the lieutenant governor from office?

SPEAKER: The difference is that the rules of the constitution provide for a specific method to remove, to replace the lieutenant governor. The other methods relating to the Texas House of Representatives set out specific ways that apply to all members, including the speaker.

T. SMITH: How do those provisions that apply to the lieutenant governor differ from the provisions that you have suggested apply in this instance?

SPEAKER: Just a moment. We refer you to Article III, Section 9. You should read paragraph (A) and (B). And furthermore, you should look at several other provisions of the Texas Constitution, including as follows: Article XVI, Section 5; Article III, Section 8; Article XV, Section 7.

T. SMITH: I'll do that, Mr. Speaker. Mr. Speaker, if you were presented with a petition that was signed by a significant majority of the members of this body asking for your resignation, would you submit to the indisputable will of this body?

SPEAKER: That's not a proper parliamentary inquiry.

REPRESENTATIVE PITTS: Mr. Speaker, can you tell us, I think you said this before, but did Ms. Davis ask to be reassigned in your office?

SPEAKER: That is correct, Mr. Pitts.

PITTS: And Mr. Griesel the same?

SPEAKER: That's correct.

PITTS: Mr. Speaker, would that be a cause why members of your office escorted Ms. Davis and Mr. Griesel out of their office and locked them out of the office?

SPEAKER: I'm not advised of that.

PITTS: You're not aware that your office escorted Ms. Davis and Mr. Griesel out of their office?

SPEAKER: I'm not advised.

REPRESENTATIVE HILL: Would you have a conversation with me?

SPEAKER: Mr. Hill, state your inquiry.

HILL: The body has been in turmoil, and we are all your colleagues. That is correct, isn't it?

SPEAKER: Sorry, Mr. Hill. Could you speak just a little louder?

HILL: Sure. I said the body has been in turmoil, and we are all your colleagues. Is that not correct?

SPEAKER: That's correct.

HILL: Right. And there has been an inquiry about the motion, if a motion were made, to ask you to vacate the chair, and you have deflected that inquiry by stating certain rules, etc. There is controversy over whether or not those rules are accurate. Let me read a motion to you. Pursuant to House Rule 5, Section 35 and 36, as a question of privilege, I move to declare the office of speaker vacant. Pursuant to Paragraph 2, Section 580, of Mason's Manual of Legislative Procedure, I further request that the speaker pro tempore be placed in the chair while this matter is decided. Would you accept that motion?

SPEAKER: I will not recognize you for that motion.

HILL: Mr. Speaker, I would like to ask that the body have the opportunity to overrule the decision of the chair.

SPEAKER: Pursuant to Rule 5, Section 24, that is not appropriate, Mr. Hill.

HILL: There is no such motion, are you saying that? It's an acceptable motion, to overrule the chair.

SPEAKER: The speaker's discretion to recognize a member on any matter is unappealable.

HILL: Even a motion to overrule the chair is unappealable?

SPEAKER: Let us finish, Mr. Hill. Per Rule 5, Section 24, which is unique to the house, and is not in the Senate Rules of the State of Texas.

HILL: What is the rule that you cited?

SPEAKER: We'd like to finish, Mr. Hill.

HILL: Sorry. Please go ahead.

SPEAKER: Pursuant to Rule 5, Section 24, and there is no parallel rule in the senate, the speaker of the House of Representatives has absolute discretion whether or not to recognize any member on any matter. The rule specifically provides that there is no appeal to that. That is a rule that's been enacted by the Texas House. Furthermore, what you have cited as Mason's Rules do not apply to that, because you are attempting to create a substantive motion, and we would only look to Mason's Rules on a matter of procedure, not a substantive matter.

HILL: I would like to ask you to tell me the rule that you just cited, that does not allow us to overrule a ruling of the chair.

SPEAKER: Rule 5, Section 24.

HILL: That's it? Mr. Speaker, I would like to move to suspend the rules that apply to Rule 5, Section 24.

SPEAKER: You are not recognized for that motion.

HILL: Mr. Speaker, I would like to appeal the ruling of the chair on my motion to suspend Rule 5, Section 24.

SPEAKER: There is no ruling of the chair because you were never recognized for the motion.

HILL: You know that we all want to abide by the rules, so that's why we have these documents to work with, but it appears that the rules don't cover every situation. Is that correct?

SPEAKER: Mr. Hill, the rules cover every situation. If they do not, then you look to substantive law of the State of Texas, and the Texas Constitution, which supersedes any law or rules.

HILL: I understand that, and that is why I quoted from Mason's in this motion, because that is one of the documents we fall back on when our set of rules are silent on an issue.

SPEAKER: Mr. Hill, our rules are clear on this particular issue.

HILL: Our rules do not address the issue of the motion to vacate the chair.

SPEAKER: It's not authorized under the rules, however the rules are clear that the speaker's power of recognition on any matter cannot be appealed.

HILL: Except in the case of a motion that is a privileged motion.

SPEAKER: That is not correct, because a privileged motion—

HILL: Could you tell me what the—I'm sorry, go ahead.

SPEAKER: Mr. Hill, you're going to have to repeat the question.

HILL: I'm asking you to provide me a definition of a privileged rule.

SPEAKER: A privileged rule, Mr. Hill?

HILL: Yes sir, a privileged motion in this case.

SPEAKER: A privileged motion, not a rule?

HILL: Yes, sir. A privileged motion.

SPEAKER: The members should read—

HILL: I'd like you to tell me, if you don't mind.

SPEAKER: Mr. Hill, it's Chapter D, questions of privilege, Section 35, questions of privilege defined. (1) and (2).

HILL: Can you tell me what motions would be privileged motions?

SPEAKER: They're set out in the rules, Mr. Hill.

HILL: One of our rules is those affecting the rights of the house collectively, its safety and dignity, and the integrity of its proceedings.

SPEAKER: That's correct. That's Subsection (a)(1).

HILL: That's right. And two, is those affecting the rights, reputation, and conduct of members individually, in their representative capacity.

SPEAKER: That's correct.

HILL: I'm making this motion under Chapter D, Section 35, Subsection (1).

SPEAKER: You're not recognized for the motion, Mr. Hill.

HILL: Mr. Speaker, I would like to make a motion to overrule the ruling of the chair.

SPEAKER: You're not recognized, because the chair has, pursuant to Rule 5, Section 24, not recognized you for the motion.

HILL: Mr. Speaker, are you familiar with Rule 14, Section 1. It says when rules are silent, if the rules are silent, or are inexplicit on any question of order, or parliamentary practice, the rules of the House of Representatives of the United States Congress and its practice, as reflected in published precedents, and Mason's Manual of Legislative Procedure shall be considered as authority. I made my motion, and cited—

SPEAKER: Mr. Hill, as we've already told you, Rule 5, Section 24, is specific to the Texas House of Representatives, so therefore our rules are not silent. Furthermore, the provision providing for reference to rules or laws outside of the Texas House of Representatives, have to do with order and parliamentary practice. Our rules are not silent, Mr. Hill.

HILL: No, I know. We have had incidents in which you have recognized members for a motion to overrule the chair, and all you requested in order to have that accomplished was 10 signatures. Are you saying that today, that you would not accept those 10 signatures to make a motion to overrule the chair?

SPEAKER: Mr. Hill, you're confusing a ruling with a decision not to recognize.

HILL: And what level of signatures would you recognize?

SPEAKER: Mr. Hill, pursuant to Rule 5, Section 24, the speaker of the house has a duty to exercise his discretion as to whether or not he will exercise, or whether or not he will recognize a member on any matter.

HILL: So that's your final statement in regards to an appeal from your members, is that you won't recognize them?

SPEAKER: We're going to abide by the rules of the house.

HILL: Your final statement is that an appeal from your members, you will not recognize them on that?

SPEAKER: The rules do not allow an appeal.

HILL: They don't allow you to? I'm sorry, I didn't hear that. Did you say they don't allow you to recognize a member for that purpose?

SPEAKER: Rule 5, Section 24, specifically states there is no appeal from the speaker's decision whether or not to recognize a member on any matter.

HILL: Mr. Speaker, I simply want to thank you for your time, and I'm sorry that you have chosen to rule in the way that you have, but I do thank you for your time.

REPRESENTATIVE DUNNAM: Earlier, I had provided you with a copy of Rule 11, from the 62nd Texas Legislature, and I had asked you to read that provision regarding recognition, and appeal of recognition, which is Section 3, and compare that with Rule 5, Section 24, that you've been citing today, and have you determined whether or not they are identical?

SPEAKER: Mr. Dunnam, we will take a look at that and give you an answer shortly.

DUNNAM: Mr. Speaker, it's taking awhile. How about we just read it? If you wouldn't mind pulling up your copy of Rule 5, Section 24, I'll read Rule 11, Section 3, from the 62nd Legislature, because I think it is on point. It is my understanding that the chair's justification for not allowing an appeal is that rule, and I'd like to know if it is exactly the same as it was in the 62nd Legislature.

SPEAKER: Mr. Dunnam, we've been trying to get through the bills of the house, and we have not had time to look at your—

DUNNAM: And I will vote to suspend the rules until dawn for those bills, Mr. Speaker.

SPEAKER: We just have one left.

DUNNAM: I understand that, and I have a feeling we might not have a quorum after that, so I'd like to ask this question now. Rule 11, Section 3, from the 62nd Legislature says, "There shall be no appeal from the speaker's recognition, but he shall be governed by the rules and usages and priority of entertaining motions from the floor. When a member seeks recognition, the speaker may ask for his information, 'for what purpose does the gentleman rise?', or, 'for what purpose does the gentleman seek recognition?', and he may then decide if recognition is to be granted." Is that the same as the rule as it exists today?

SPEAKER: The rule today, Mr. Dunnam, reads as follows: "Recognition. There shall be no appeal from the speaker's recognition, but the speaker shall be governed by rules and usage and priority of entertaining motions from the floor. When a member seeks recognition, the speaker may ask, 'for what purpose does the member rise?', or, 'for what purpose does the member seek recognition?.' He may then decide if recognition is to be granted." It is obvious that a prior speaker has the discretion whether or not to recognize a member for any matter. The fact that a speaker has the discretion not to recognize a member does not mean that a speaker cannot go ahead and recognize him.

DUNNAM: Well, my question is, the rules are the same as they were back then, the only change is the word "he" has been substituted with "speaker," and the term "member," has been substituted for "gentleman." Is that correct? Otherwise the rules are identical.

SPEAKER: If you say so, Mr. Dunnam, we don't have that down here.

DUNNAM: Then I would ask again, Mr. Speaker, when Ms. Farenthold moved as a matter of personal privilege to take up and consider **HCR 87** on March 15, 1971, the speaker did not recognize Ms. Farenthold on the motion, stating that the resolution was not privileged. In other words, had it been privileged, he would be required to recognize her under Rule 17 of the House Rules, and the resolution could not be considered. Mr. Denton appealed the ruling of the chair, the appeal was seconded by 10 members, and Mr. Craddick is shown voting with the "Dirty 30" to appeal Mr. Mutscher's ruling. And so the question is, if they were allowed to appeal then, and you were allowed to appeal then, why can't we now? The rule says—it doesn't say anything about discretion at the top of Section 3—it says, "there shall be no appeal of the speaker's recognition." But it's clear when the chair determines if a matter is not privileged, therefore, that is subject to appeal. What is different now, other than you were in the chamber then, and you're on the dais now?

SPEAKER: The difference is the speaker you're referencing may have exercised his discretion to allow an appeal to go forward. In spite of the rules, the clear, specific content of Rule 5, Section 24, indicates that the speaker did not have to do that.

DUNNAM: Mr. Speaker.

SPEAKER: The fact that he did so does not alter the rule.

DUNNAM: Are you suggesting that Speaker Mutscher was more fair than you?

SPEAKER: Mr. Dunnam, that is not a proper—

DUNNAM: Well, let me ask you if this is proper. You've said that he used his discretion. If you read the sentence, it says, "there shall be no appeal from the speaker's recognition." It doesn't say he has discretion either way. The reason that there was an appeal—they did not appeal the decision on whether or not to recognize, they appealed, and you appealed, the decision of Mr. Mutscher that it was not privileged. For had it been privileged, he had to recognize it, and so that's what was appealed. It wasn't recognition was not appealed. The decision of Mr. Mutscher that it was not a privileged motion is what was appealed. For had it been privileged, he had to recognize them.

SPEAKER: We've already answered the question, Mr. Dunnam.

DUNNAM: I don't think so, Mr. Speaker.

REPRESENTATIVE TALTON: Mr. Speaker, you would agree, would you not, that the house sets the rules, and we pass rules initially, is that correct?

SPEAKER: That's correct.

TALTON: And if a house wants to change the rules, a house can change the rules. Is that correct?

SPEAKER: That's correct.

TALTON: And the house can do that at any time, is that correct?

SPEAKER: If they are recognized for a motion to do so.

TALTON: Yes, sir. Now, Mr. Speaker, would you recognize me to suspend the rules and change the rule regarding the power of recognition, specifically Rule 5, Section 24, the power of recognition?

SPEAKER: I will not.

TALTON: Thank you.

### **REMARKS ORDERED PRINTED**

Representative Leibowitz moved to print all non-bill related parliamentary inquiries made on this legislative day from 11 p.m. to adjournment.

The motion prevailed.

### **HB 2265 - RULES SUSPENDED**

Representative Haggerty moved to suspend all necessary rules to consider **HB 2265** with senate amendments at this time.

The motion prevailed.

### **HB 2265 - MOTION TO CONCUR IN SENATE AMENDMENTS**

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

**HB 2265**, A bill to be entitled An Act relating to the award of prizes in, and the conduct of, a progressive bingo game.

Representative Haggerty moved to concur in the senate amendments to **HB 2265**.

### **HB 2265 - POINT OF ORDER**

Representative Talton raised a point of order against further consideration of **HB 2265** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

(Speaker pro tempore in the chair)

### **PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamation by the governor:

TO ALL WHOM THESE PRESENTS SHALL COME:

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTIETH TEXAS LEGISLATURE, REGULAR SESSION:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove and veto **HB 770** of the 80th Texas Legislature, Regular Session, due to the following objections:

**HB 770** requires the Texas Department of Criminal Justice (TDCJ) give written notice to each convicted felon released from prison, or whose parole or probation ends, that they are eligible to vote, and requires the Texas Department of Criminal Justice to provide former inmates with a voter registration form. This legislation is objectionable for several reasons. First, registering former inmates to vote is not within the mission of TDCJ. Their role is to incarcerate and rehabilitate offenders, and we should not divert resources away from this difficult task by mandating that TDCJ register inmates that are leaving the system or track down each convict when their parole or probation is over to encourage them to vote. In the 78th Regular Session, I vetoed a similar piece of legislation, **HB 1517**, that was less onerous than this—it required that the state post notice to released felons of their right to vote. Second, the state does not currently provide this service to law-abiding citizens, such as high school graduates who are new to voting. I find it unseemly that the state would make a greater effort to register former inmates to vote than we would any other group of citizens in this state. Third, when an individual is released from prison and their rights are restored, it is imperative that they take personal responsibility for all aspects of their life, including their right to vote. Lastly, nothing in current law precludes any political party or organization from organizing a voter registration drive among released convicts. In fact, a large amount of resources is dedicated each election cycle to registering Texans not currently on the voter rolls. But government should not make it a greater priority to register to vote those who broke our laws than those who have abided by them.

Since you remain gathered in regular session and continue to conduct formal business, I am delivering this disapproval message directly to you along with the official enrolled copy of the bill.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 25th day of May, 2007.

Rick Perry  
Governor of Texas

(SEAL)  
Roger Williams  
Secretary of State

**HB 2265 - (consideration continued)****HB 2265 - POINT OF ORDER DISPOSITION**

The chair sustained the point of order, speaking as follows:

Representative Talton raised a point of order against further consideration of senate amendments to **HB 2265** under Rule 11, Section 2 of the House Rules on the grounds that Senate Amendment No. 2 is not germane to the house engrossment. The subject of **HB 2265** as passed by the house is the conduct of progressive bingo games and amounts of prizes awarded in those games by organizations authorized by current law to conduct charitable bingo games. The house version did not expand the types of entities authorized to conduct charitable bingo games. Senate Amendment No. 2 has the effect of authorizing a new class of entities to conduct charitable bingo games. The subject of the amendment is different from the subject of the house bill, and is therefore not germane.

**HB 2265 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2265**, A bill to be entitled An Act relating to the award of prizes in, and the conduct of, a progressive bingo game.

Representative Haggerty moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2265**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2265**: Haggerty, chair; Chavez, Pickett, Quintanilla, and Talton.

**RESOLUTIONS ADOPTED**

Representative McClendon moved to suspend all necessary rules in order to take up and consider at this time **HCR 269 - HCR 271** and **HR 2814**.

The motion prevailed.

The following resolutions were laid before the house:

**HCR 269** (by Homer), In memory of Elizabeth Robertson Boatner of Mount Pleasant.

**HCR 270** (by Homer), In memory of Ashantay Renee Gray Bouchon of Paris.

**HCR 271** (by Homer), In memory of Dean Vincent Grossnickle.

**HR 2814** (by Bohac), In memory of Richard W. Luzader of Houston.

The resolutions were unanimously adopted by a rising vote.

**HR 2093 - ADOPTED**  
**(by Guillen)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2093**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2093**, Recognizing the city of Zapata on its selection as a "micro" City of the Future.

**HR 2093** was adopted.

**ADJOURNMENT**

Representative Taylor moved that the house adjourn until 11 a.m. today, May 26, in memory of Farrah "Vick" Vickers of Sinton.

A record vote was requested.

The motion to adjourn prevailed by (Record 1880): 135 Yeas, 2 Nays, 1 Present, not voting.

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

Nays — Bolton; Geren.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Harless.

Absent — Farabee; Gonzalez Toureilles; Haggerty; Hamilton; Macias; Mallory Caraway; Moreno; Oliveira; Smith, W.; Turner.

The house accordingly, at 1:23 a.m. May 26, adjourned until 11 a.m. today.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

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

**List No. 1**

**SCR 76** to Defense Affairs and State-Federal Relations.

**SCR 77** to Defense Affairs and State-Federal Relations.

**SCR 79** to Defense Affairs and State-Federal Relations.

**SIGNED BY THE SPEAKER**

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

**House List No. 46**

**HB 2, HB 316, HB 317, HB 438, HB 448, HB 492, HB 544, HB 555, HB 638, HB 681, HB 724, HB 957, HB 967, HB 971, HB 1009, HB 1086, HB 1092, HB 1207, HB 1265, HB 1287, HB 1290, HB 1303, HB 1316, HB 1330, HB 1400, HB 1459, HB 1470, HB 1519, HB 1524, HB 1609, HB 1656, HB 1667, HB 1669, HB 1671, HB 1775, HB 1889, HB 1899, HB 1944, HB 1955, HB 2074, HB 2118, HB 2138, HB 2173, HB 2190, HB 2222, HB 2328, HB 2365, HB 2389, HB 2417, HB 2427, HB 2438, HB 2467, HB 2501, HB 2523, HB 2524, HB 2543, HB 2548, HB 2703, HB 2713, HB 2715, HB 2723, HB 2724, HB 2751, HB 2752, HB 2782, HB 2820, HB 2827, HB 2895, HB 2896, HB 2897, HB 2917, HB 2918, HB 2926, HB 2936, HB 2949, HB 3060, HB 3106, HB 3220, HB 3672, HB 3776, HB 3876, HB 3879, HB 3984, HB 3990, HB 4015, HB 4031, HB 4037, HB 4038, HB 4039, HB 4040, HB 4041, HB 4042, HB 4043, HB 4046, HB 4047, HB 4056, HB 4057, HB 4062, HB 4065, HB 4067, HB 4070, HB 4072, HB 4074, HB 4079, HB 4080, HB 4083, HB 4084, HB 4093, HB 4094, HB 4096, HB 4097, HB 4098, HB 4099, HB 4101, HB 4104, HB 4109, HB 4111, HB 4112, HB 4114, HB 4123, HCR 12, HCR 16, HCR 25, HCR 35, HCR 102, HCR 111, HCR 151, HCR 164, HCR 187, HCR 207, HCR 233, HCR 266, HCR 267, HJR 6, HJR 72, HJR 90**

**Senate List No. 49**

**SB 7, SB 29, SB 155, SB 161, SB 552, SB 606, SB 737, SB 747, SB 760, SB 772, SB 778, SB 827, SB 831, SB 992, SB 1007, SB 1032, SB 1050, SB 1053, SB 1161, SB 1169, SB 1180, SB 1237, SB 1238, SB 1255, SB 1274, SB 1288, SB 1310, SB 1404, SB 1446, SB 1456, SB 1504, SB 1510, SB 1524,**

**SB 1526, SB 1531, SB 1723, SB 1743, SB 1829, SB 1877, SB 1954, SB 1974, SB 1986, SB 1997, SB 2000, SB 2002, SB 2014, SB 2037, SB 2054, SCR 1, SCR 9, SCR 60, SCR 84, SJR 29**

### MESSAGES FROM THE SENATE

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

#### Message No. 1

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Friday, May 25, 2007

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

#### **SB 3**

Senate Conferees: Averitt - Chair/Eltife/Hegar/Hinojosa/Shapiro

#### **SB 9**

Senate Conferees: Shapiro - Chair/Hinojosa/Janek/Ogden/Van de Putte

#### **SB 101**

Senate Conferees: Shapiro - Chair/Ellis/Janek/Nelson/Zaffirini

#### **SB 406**

Senate Conferees: Wentworth - Chair/Carona/Duncan/Hinojosa/Watson

#### **SB 718**

Senate Conferees: Ogden - Chair/Duncan/Eltife/Nichols/Shapleigh

#### **SB 964**

Senate Conferees: Shapiro - Chair/Carona/Fraser/Nelson/Williams

#### **SB 965**

Senate Conferees: Shapiro - Chair/Carona/Harris/Nelson/West, Royce

#### **SB 1058**

Senate Conferees: West, Royce - Chair/Estes/Ogden/Shapleigh/Van de Putte

#### **SB 1604**

Senate Conferees: Duncan - Chair/Averitt/Hegar/Jackson, Mike/Seliger

**SB 1846**

Senate Conferees: Duncan - Chair/Fraser/Lucio/Ogden/Williams

**SB 1871**

Senate Conferees: Zaffirini - Chair/Carona/Janek/Seliger/Van de Putte

**SB 1879**

Senate Conferees: Williams - Chair/Deuell/Nelson/Van de Putte/West, Royce

**SB 2003**

Senate Conferees: Estes - Chair/Averitt/Lucio/Nichols/Patrick, Dan

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 109**

Senate Conferees: Averitt - Chair/Deuell/Hinojosa/Nelson/Ogden

**HB 892**

Senate Conferees: Fraser - Chair/Nichols/Patrick, Dan/Wentworth/West, Royce

**HB 1111**

Senate Conferees: Uresti - Chair/Deuell/Hegar/Hinojosa/Seliger

**HB 1251**

Senate Conferees: Wentworth - Chair/Nichols/Patrick, Dan/Seliger/Shapleigh

**HB 1457**

Senate Conferees: Nichols - Chair/Averitt/Eltife/Estes/Hegar

**HB 1498**

Senate Conferees: Eltife - Chair/Deuell/Hegar/Hinojosa/Uresti

**HB 2096**

Senate Conferees: Uresti - Chair/Estes/Hinojosa/Lucio/Patrick, Dan

**HB 2819**

Senate Conferees: Jackson, Mike - Chair/Estes/Hinojosa/Janek/Lucio

**HB 2960**

Senate Conferees: Fraser - Chair/Eltife/Jackson, Mike/Janek/Van de Putte

**HB 3066**

Senate Conferees: Patrick, Dan - Chair/Deuell/Duncan/Uresti/Williams

**HB 3105**

Senate Conferees: Duncan - Chair/Ellis/Fraser/Hinojosa/Shapiro

**HB 3849**

Senate Conferees: Hinojosa - Chair/Deuell/Hegar/Watson/Wentworth

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Friday, May 25, 2007 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 2510** Martinez, "Mando" SPONSOR: Hinojosa  
Relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.

**HCR 96** Driver SPONSOR: Williams  
Requesting the lieutenant governor and speaker to create a joint interim committee to study the qualifications and standards necessary to be designated a police agency and to encourage a moratorium on the statutory creation of new police agencies.

**HCR 260** Isett, Carl SPONSOR: Deuell  
Congratulating Michael J. Warner of Austin on his graduation from The University of Texas at Austin.

**SCR 80** Van de Putte  
Commending the Texas State Board of Pharmacy for 100 years of service to the citizens of Texas.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

<b>SB 27</b>	(30 Yeas, 0 Nays)
<b>SB 74</b>	(30 Yeas, 0 Nays)
<b>SB 141</b>	(30 Yeas, 0 Nays)
<b>SB 363</b>	(30 Yeas, 0 Nays)
<b>SB 410</b>	(30 Yeas, 0 Nays)
<b>SB 560</b>	(30 Yeas, 0 Nays)
<b>SB 649</b>	(30 Yeas, 0 Nays)
<b>SB 714</b>	(30 Yeas, 0 Nays)
<b>SB 919</b>	(30 Yeas, 0 Nays)
<b>SB 924</b>	(30 Yeas, 0 Nays)
<b>SB 962</b>	(30 Yeas, 0 Nays)

<b>SB 1091</b>	(30 Yeas, 0 Nays)
<b>SB 1092</b>	(30 Yeas, 0 Nays)
<b>SB 1185</b>	(30 Yeas, 0 Nays)
<b>SB 1207</b>	(30 Yeas, 0 Nays)
<b>SB 1231</b>	(30 Yeas, 0 Nays)
<b>SB 1233</b>	(30 Yeas, 0 Nays)
<b>SB 1339</b>	(30 Yeas, 0 Nays)
<b>SB 1391</b>	(30 Yeas, 0 Nays)
<b>SB 1535</b>	(30 Yeas, 0 Nays)
<b>SB 1613</b>	(30 Yeas, 0 Nays)
<b>SB 1624</b>	(30 Yeas, 0 Nays)
<b>SB 1658</b>	(30 Yeas, 0 Nays)
<b>SB 1729</b>	(30 Yeas, 0 Nays)
<b>SB 1788</b>	(30 Yeas, 0 Nays)
<b>SB 1912</b>	(30 Yeas, 0 Nays)
<b>SB 1942</b>	(30 Yeas, 0 Nays)
<b>SB 1972</b>	(30 Yeas, 0 Nays)
<b>SB 1984</b>	(30 Yeas, 0 Nays)
<b>SB 2020</b>	(30 Yeas, 0 Nays)
<b>SJR 65</b>	(30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 11**

Senate Conferees: Carona - Chair/Brimer/Hinojosa/Lucio/Seliger

**SB 228**

Senate Conferees: Harris - Chair/Hinojosa/Watson/Wentworth/Williams

**SB 1266**

Senate Conferees: Brimer - Chair/Carona/Harris/Watson/Williams

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 945**

Senate Conferees: Hinojosa - Chair/Carona/Duncan/Janek/Lucio

**HB 1521**

Senate Conferees: Hegar - Chair/Brimer/Carona/Nichols/Zaffirini

**HB 2034**

Senate Conferees: Shapiro - Chair/Hinojosa/Nelson/Uresti/Williams

**HB 3732**

Senate Conferees: Averitt - Chair/Brimer/Nelson/Nichols/Shapleigh

**HB 88** (30 Yeas, 0 Nays)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 930** (30 Yeas, 0 Nays)**HB 1044** (30 Yeas, 0 Nays)**HB 2004** (30 Yeas, 0 Nays)**SB 222** (30 Yeas, 0 Nays)**SB 763** (30 Yeas, 0 Nays)**SB 1896** (30 Yeas, 0 Nays)**SB 1993** (30 Yeas, 0 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 3**MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Friday, May 25, 2007 - 3The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SB 131** (30 Yeas, 0 Nays)**SB 282** (30 Yeas, 0 Nays)**SB 617** (30 Yeas, 0 Nays)**SB 662** (30 Yeas, 0 Nays)**SB 766** (30 Yeas, 0 Nays)**SB 968** (30 Yeas, 0 Nays)**SB 1234** (30 Yeas, 0 Nays)**SB 1245** (30 Yeas, 0 Nays)

<b>SB 1523</b>	(30 Yeas, 0 Nays)
<b>SB 1566</b>	(30 Yeas, 0 Nays)
<b>SB 1601</b>	(30 Yeas, 0 Nays)
<b>SB 1640</b>	(30 Yeas, 0 Nays)
<b>SB 1719</b>	(30 Yeas, 0 Nays)
<b>SB 1724</b>	(30 Yeas, 0 Nays)
<b>SB 2031</b>	(27 Yeas, 3 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 530**

Senate Conferees: Nelson - Chair/Janek/Shapiro/Van de Putte/Watson

**SB 758**

Senate Conferees: Nelson - Chair/Deuell/Nichols/Shapiro/Uresti

**SB 909**

Senate Conferees: Whitmire - Chair/Brimer/Hinojosa/Seliger/Williams

**SB 1436**

Senate Conferees:

**SB 1731**

Senate Conferees: Duncan - Chair/Eltife/Janek/Lucio/Van de Putte

**SB 1908**

Senate Conferees: Ellis - Chair/Brimer/Duncan/Wentworth/West, Royce

**SB 1951**

Senate Conferees: Wentworth - Chair/Duncan/Harris/Hinojosa/Ogden

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 126**

Senate Conferees: Seliger - Chair/Deuell/Van de Putte/Whitmire/Williams

**HB 1146**

Senate Conferees: Janek - Chair/Duncan/Jackson, Mike/Seliger/Uresti

**HB 1522**

Senate Conferees: Williams - Chair/Ellis/Hinojosa/Nichols/Shapiro

**HB 1638**

Senate Conferees: Jackson, Mike - Chair/Brimer/Hegar/Janek/Williams

**HB 2542**

Senate Conferees: Estes - Chair/Hegar/Hinojosa/Jackson, Mike/Nichols

**HB 2823**

Senate Conferees: Patrick, Dan - Chair/Brimer/Carona/Jackson, Mike/Uresti

**HB 3275**

Senate Conferees: Hegar - Chair/Carona/Janek/Patrick, Dan/Williams

**SB 482** (30 Yeas, 0 Nays)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 792** (30 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Friday, May 25, 2007 - 4

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 960**

Senate Conferees: Shapleigh - Chair/Eltife/Shapiro/Uresti/Van de Putte

**SB 1332**

Senate Conferees: West, Royce - Chair/Brimer/Duncan/Ogden/Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 568**

Senate Conferees: Harris - Chair/Brimer/Carona/Watson/Wentworth

**HB 1481**

Senate Conferees: Uresti - Chair/Harris/Hinojosa/Watson/Wentworth

**HB 1864**

Senate Conferees: Hinojosa - Chair/Carona/Harris/Seliger/Watson

**HB 2072**

Senate Conferees: Zaffirini - Chair/Averitt/Brimer/Eltife/Hinojosa

**HB 2093**

Senate Conferees: Carona - Chair/Brimer/Nichols/Ogden/Watson

**HB 2238**

Senate Conferees: Shapiro - Chair/Carona/Janek/Van de Putte/Williams

**HB 2814**

Senate Conferees: Van de Putte - Chair/Janek/Ogden/Shapiro/Zaffirini

**HB 2909**

Senate Conferees: Ogden - Chair/Eltife/Lucio/Nichols/West, Royce

**HB 3068**

Senate Conferees: Zaffirini - Chair/Estes/Lucio/Seliger/Shapleigh

**HB 4139**

Senate Conferees: Deuell - Chair/Duncan/Hinojosa/Watson/Wentworth

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE  
COMMITTEE REPORTS:

**HB 2458** (30 Yeas, 0 Nays)**SB 1520** (30 Yeas, 0 Nays)**SB 1983** (30 Yeas, 0 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

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**APPENDIX**


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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 24**Judiciary - **HCR 225****ENGROSSED****May 24 - HCR 121, HCR 138, HCR 155****ENROLLED**

**May 24 - HB 47, HB 89, HB 142, HB 177, HB 261, HB 278, HB 309, HB 335, HB 343, HB 373, HB 412, HB 431, HB 432, HB 433, HB 455, HB 485, HB 487, HB 541, HB 567, HB 621, HB 831, HB 888, HB 916, HB 959, HB 964, HB 1034, HB 1121, HB 1158, HB 1166, HB 1183, HB 1212, HB 1241, HB 1254, HB 1275, HB 1297, HB 1352, HB 1370, HB 1374,**

HB 1381, HB 1385, HB 1411, HB 1427, HB 1456, HB 1493, HB 1500,  
HB 1545, HB 1573, HB 1587, HB 1614, HB 1687, HB 1728, HB 1737,  
HB 1747, HB 1759, HB 1795, HB 1815, HB 1841, HB 1847, HB 1849,  
HB 1915, HB 1920, HB 1921, HB 1995, HB 2002, HB 2070, HB 2077,  
HB 2087, HB 2091, HB 2092, HB 2101, HB 2103, HB 2112, HB 2115,  
HB 2117, HB 2151, HB 2174, HB 2218, HB 2256, HB 2267, HB 2283,  
HB 2352, HB 2353, HB 2358, HB 2368, HB 2385, HB 2442, HB 2445,  
HB 2484, HB 2540, HB 2549, HB 2551, HB 2569, HB 2608, HB 2617,  
HB 2627, HB 2639, HB 2646, HB 2651, HB 2654, HB 2660, HB 2694,  
HB 2761, HB 2766, HB 2984, HB 2990, HB 2991, HB 3008, HB 3011,  
HB 3017, HB 3024, HB 3038, HB 3093, HB 3098, HB 3114, HB 3131,  
HB 3147, HB 3171, HB 3182, HB 3195, HB 3210, HB 3211, HB 3225,  
HB 3236, HB 3261, HB 3266, HB 3270, HB 3273, HB 3290, HB 3291,  
HB 3295, HB 3300, HB 3352, HB 3353, HB 3355, HB 3367, HB 3392,  
HB 3407, HB 3435, HB 3439, HB 3457, HB 3470, HB 3502, HB 3558,  
HB 3593, HB 3619, HB 3647, HB 3659, HB 3688, HB 3723, HB 3735,  
HB 3736, HB 3764, HB 3770, HB 3787, HB 3832, HB 3834, HB 3934,  
HB 3954, HB 3979, HB 3980, HB 3982, HB 3988, HB 3989, HB 3991,  
HB 3992, HB 3993, HB 3997, HB 3998, HB 4004, HB 4006, HB 4008,  
HB 4009, HB 4010, HB 4017, HB 4018, HB 4019, HB 4022, HB 4024,  
HCR 232

**SIGNED BY THE GOVERNOR**

**May 24 - HB 34, HB 208, HB 233, HB 365, HB 518, HB 1602**

