A BILL TO BE ENTITLED
AN ACT
relating to additional officeholdings by municipal court judges.

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

SECTION 1. Section 574.001, Government Code, is amended to
read as follows:

Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A
nonelective state officer may not accept an offer to serve in
another nonelective office unless the officer obtains from the
governing body or, if there is not a governing body, the executive
head of the agency, division, department, or institution with which
the officer is associated a finding that the officer has satisfied
Article XVI, Section 40, of the Texas Constitution.

(b) An appointed municipal judge may hold the position of
municipal judge in more than one municipality. The holding of an
additional appointed office as municipal judge is of benefit to the
State of Texas.

SECTION 2. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
relating to holding at the same time more than one office of
municipal judge filled by appointment.

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

SECTION 1. Section 574.001, Government Code, is amended to
read as follows:

1-15
Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A
nonelective state officer may not accept an offer to serve in
another nonelective office unless the officer obtains from the
governing body or, if there is not a governing body, the executive
head of the agency, division, department, or institution with which
the officer is associated a finding that the officer has satisfied
Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more
than one municipality at the same time if each office is filled by
appointment. The holding of these offices at the same time is of
benefit to this state.

SECTION 2. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.

* * * * *
FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SCR  SJR  SR  HB  HCR  HJR  117.3
By Duncan
(Author/Senate Sponsor)
APRIL 4, 1997
(date)

We, your Committee on JURISPRUDENCE, to which was referred the attached measure, have on APRIL 21, 1997, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

✓ do pass as substituted, and be printed
✓ the caption remained the same as original measure
✓ the caption changed with adoption of the substitute

✓ do pass as substituted, and be ordered not printed
✓ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ✓ yes () no
A revised fiscal note was requested. ✓ yes () no
An actuarial analysis was requested. () yes ✓ no
Considered by subcommittee. () yes ✓ no

The measure was reported from Committee by the following vote:

<table>
<thead>
<tr>
<th>Senator Rodney Ellis, Chair</th>
<th>YEA</th>
<th>NAY</th>
<th>ABSENT</th>
<th>PNV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senator Chris Harris, Vice-Chair</td>
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<tr>
<td>Senator David Cain</td>
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<tr>
<td>Senator Robert Duncan</td>
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<tr>
<td>Senator Greg Luna</td>
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<tr>
<td>Senator Steve Ogden</td>
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<tr>
<td>Senator Jeff Wentworth</td>
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<tr>
<td>TOTAL VOTES</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Considered in public hearing
Testimony taken

COMMITTEE ACTION

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files
BILL ANALYSIS

Senate Research Center

C.S.S.B. 1173
By: Duncan
Jurisprudence
4-3-97
Committee Report (Substituted)

DIGEST

Currently, the law prohibits one individual from serving in two public offices of emolument. In many smaller cities the activities of a municipal court do not require a full-time judge. These cities have appointed judges who serve as municipal judges in other municipalities. This bill authorizes a municipal court judge to hold that position in more than one municipality.

PURPOSE

As proposed, C.S.S.B. 1173 authorizes a municipal court judge to hold that position in more than one municipality.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 574.001, Government Code, to authorize a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. Provides that holding of these offices at the same time is of benefit to the State of Texas. Makes a conforming change.

SECTION 2. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 574.001, Government Code, to authorize a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. Provides that holding of these offices at the same time is of benefit to the State of Texas.
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 3, 1997

To: Honorable Rodney Ellis, Chair
Committee on Jurisprudence
Senate
Austin, Texas

IN RE: Senate Bill No. 1173,
Committee Report 1st House,
Substituted
By: Duncan

From: John Keel, Director

In response to your request for a Fiscal Note on SB1173 (relating to holding at the same time
more than one office of municipal judge filled by appointment) this office has determined the
following:

Biennial Net Impact to General Revenue Funds by SB1173-Committee Report 1st House,
Substituted

No fiscal implication to the State is anticipated.

The bill would permit a person to hold the office of municipal judge for more than one
municipality at the same time if each office is filled by appointment. It is estimated
that this bill would result in some savings for cities who share the expense of a judge's
compensation with other cities.

Source: Agencies: 212 Office of Court Administration
LBB Staff: JK, BB, DC
To: Honorable Rodney Ellis, Chair  
   Committee on Jurisprudence  
   Senate  
   Austin, Texas  

From: John Keel, Director

IN RE: Senate Bill No. 1173  
   By: Duncan

In response to your request for a Fiscal Note on SB1173 (Relating to additional officeholdings by municipal court judges.) this office has determined the following:

---

**Biennial Net Impact to General Revenue Funds by SB1173-As Introduced**

No fiscal implication to the State is anticipated.

---

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.

Source: Agencies: 212 Office of Court Administration  
   LBB Staff: JK, BB, DC
WITNESS LIST

SB 1173
SENATE COMMITTEE REPORT
Jurisprudence Committee

April 2, 1997 - 1:30P
For: Indorf, David Judge (Self), Dallas
     O'Neal, Michael Judge (TX Munic. Courts Assn.), Dallas

Registering, but not testifying:
For: Freeman, Bill Judge (Self), Gainesville
A BILL TO BE ENTITLED

AN ACT

relating to holding at the same time more than one office of municipal judge filled by
appointment.

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

SECTION 1. Section 574.001, Government Code, is amended to read as follows:

Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A nonelective state
officer may not accept an offer to serve in another nonelective office unless the officer obtains
from the governing body or, if there is not a governing body, the executive head of the agency,
division, department, or institution with which the officer is associated a finding that the officer
has satisfied Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more than one municipality at the
same time if each office is filled by appointment. The holding of these offices at the same time is
of benefit to this state.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in
both houses create an emergency and an imperative public necessity that the constitutional rule
requiring bills to be read on three several days in each house be suspended, and this rule is hereby
suspended, and that this Act take effect and be in force from and after its passage, and it is so
enacted.

4.4.97
By: Duncan (Clark)  

S.B. No. 1173

A BILL TO BE ENTITLED

AN ACT

relating to holding at the same time more than one office of
municipal judge filled by appointment.

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

SECTION 1. Section 574.001, Government Code, is amended to
read as follows:

Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A
nonelective state officer may not accept an offer to serve in
another nonelective office unless the officer obtains from the
governing body or, if there is not a governing body, the executive
head of the agency, division, department, or institution with which
the officer is associated a finding that the officer has satisfied
Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more
than one municipality at the same time if each office is filled by
appointment. The holding of these offices at the same time is of
benefit to this state.

SECTION 2. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 3, 1997

To: Honorable Rodney Ellis, Chair
   Committee on Jurisprudence
   Senate
   Austin, Texas

IN RE: Senate Bill No. 1173,
   Committee Report 1st House,
   Substituted
   By: Duncan

From: John Keel, Director

In response to your request for a Fiscal Note on SB1173 (relating to holding at the same time more than one office of municipal judge filled by appointment) this office has determined the following:

Biennial Net Impact to General Revenue Funds by SB1173-Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.

Source: Agencies: 212 Office of Court Administration

   LBB Staff: JK, BB, DC
LEGISLATIVE BUDGET BOARD  
Austin, Texas  

FISCAL NOTE  
75th Regular Session  
March 31, 1997  

To: Honorable Rodney Ellis, Chair  
Committee on Jurisprudence  
Senate  
Austin, Texas  

IN RE: Senate Bill No. 1173  
By: Duncan  

From: John Keel, Director  

In response to your request for a Fiscal Note on SB1173 (Relating to additional officeholdings by municipal court judges.) this office has determined the following:  

---  

**Biennial Net Impact to General Revenue Funds by SB1173-As Introduced**  

No fiscal implication to the State is anticipated.  

---  

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.  

Source: Agencies: 212 Office of Court Administration  

LBB Staff: JK, BB, DC
By: Duncan Clark

A BILL TO BE ENTITLED

AN ACT

relating to holding at the same time more than one office of municipal judge filled by appointment.

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

SECTION 1. Section 574.001, Government Code, is amended to read as follows:

Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A nonelective state officer may not accept an offer to serve in another nonelective office unless the officer obtains from the governing body or, if there is not a governing body, the executive head of the agency, division, department, or institution with which the officer is associated a finding that the officer has satisfied Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. The holding of these offices at the same time is of benefit to this state.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON JUDICIAL AFFAIRS
to whom was referred SB 1173 have had the same under consideration and beg to report
back with the recommendation that it

( x) do pass, without amendment.
( ) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

( ) yes (x) no A fiscal note was requested.
( ) yes (x) no A criminal justice policy impact statement was requested.
( ) yes (x) no An equalized educational funding impact statement was requested.
( ) yes (x) no An actuarial analysis was requested.
( ) yes (x) no A water development policy impact statement was requested.
( ) yes (x) no A tax equity note was requested.
( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Ron Clark

Joint Sponsors: __________________________ /
Co-Sponsors: __________________________

The measure was reported from Committee by the following vote:

<table>
<thead>
<tr>
<th></th>
<th>AYE</th>
<th>NAY</th>
<th>PNV</th>
<th>ABSENT</th>
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<tbody>
<tr>
<td>Thompson, Chair</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Hartnett, Vice-chair</td>
<td>X</td>
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<tr>
<td>Clark</td>
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<tr>
<td>Crabb</td>
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<td>Garcia</td>
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<td></td>
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<td>X</td>
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<td>Luna</td>
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<td>Shields</td>
<td>X</td>
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<tr>
<td>Solis</td>
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<tr>
<td>Zbranek</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Total 7 aye
0 nay
0 present, not voting
2 absent

Sincerely,

[Signature]
CHAIR
BILL ANALYSIS

JUDICIAL AFFAIRS
S.B. 1173
By: Duncan (Clark)
4-15-97
Committee Report (Unamended)

BACKGROUND

The Texas Constitution generally prohibits one individual from serving in two public offices of emolument. There are numerous exceptions to this general requirement (i.e., justices of the peace, county commissioners, etc.). Texas law creates a municipal court in every incorporated municipality and requires training of municipal court judges. In many smaller cities the activities of the court do not require a full-time judge. These cities have appointed judges who serve as municipal judges in other municipalities. This allows smaller cities to appoint judges who are qualified and trained. A question has arisen in several cases brought by the Republic of Texas as to whether this violates Article 16, Section 40, of the Texas Constitution concerning dual office holding. Federal Judge Barefoot Sanders has dismissed one such claim in a Federal suit against the City of Heath. Subsequently, in TEX. ATTY GEN. OP. NO. DM-428 (1996) the Attorney General ruled that an appointed municipal judge may hold more than one such appointment provided the holding of the second office is of benefit to the State. The Attorney General has stated that the legislature is the appropriate body to determine, as a general matter, whether, and under what circumstances, the holding of multiple municipal judgements is "of benefit to the State."

PURPOSE

Many small cities cannot afford a full-time municipal judge but hire one to serve a few days a month. The cost of required annual training and the time involved is a deterrent to a capable, qualified individual who can serve in only one city. By allowing a municipal judge to serve more than one city, a judge could more easily justify and attend the required training and would gain more experience by serving more regularly. This bill would amend the Government Code to make a legislative determination that the office of appointed municipal judge is an office of benefit to the State. The jurisdiction of a municipal court includes the disposition of many state offenses and complaints in municipal court are brought in the name of "State of Texas." This specific finding and statement by the Legislature will allow appointed municipal judges to serve in this capacity in more than one municipality. This will allow smaller cities to appoint competent individuals who are qualified and trained to serve as municipal court judges. This legislation will require a constitutional amendment, which is proposed through SJR 36.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Adds a new Subsection (b) to Section 574.001 of the Government Code to allow a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. This subsection declares that the holding of these offices is of benefit to this state.

SECTION 2. Emergency clause. Effective date.
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 3, 1997

To: Honorable Rodney Ellis, Chair
   Committee on Jurisprudence
   Senate
   Austin, Texas

IN RE: Senate Bill No. 1173,
   Committee Report 1st House,
   Substituted
   By: Duncan

From: John Keel, Director

In response to your request for a Fiscal Note on SB1173 (relating to holding at the same time
more than one office of municipal judge filled by appointment) this office has determined the
following:

Biennial Net Impact to General Revenue Funds by SB1173-Committee Report 1st House,
   Substituted

No fiscal implication to the State is anticipated.

The bill would permit a person to hold the office of municipal judge for more than one
municipality at the same time if each office is filled by appointment. It is estimated
that this bill would result in some savings for cities who share the expense of a judge's
compensation with other cities.

Source: Agencies: 212 Office of Court Administration
   LBB Staff: JK, BB, DC
LEGISLATIVE BUDGET BOARD  
Austin, Texas  

FISCAL NOTE  
75th Regular Session  

March 31, 1997  

To: Honorable Rodney Ellis, Chair  
Committee on Jurisprudence  
Senate  
Austin, Texas  

IN RE: Senate Bill No. 1173  
By: Duncan  

From: John Keel, Director  

In response to your request for a Fiscal Note on SB1173 (Relating to additional officeholdings by municipal court judges.) this office has determined the following:  

---  

**Biennial Net Impact to General Revenue Funds by SB1173-As Introduced**  

No fiscal implication to the State is anticipated.  

---  

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.  

Source: Agencies: 212 Office of Court Administration  
LBB Staff: JK, BB, DC
April 15, 1987  2:00PM
Considered in formal meeting
Reported favorably without amendment(s)
AN ACT
relating to holding at the same time more than one office of
municipal judge filled by appointment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 574.001, Government Code, is amended to
read as follows:
Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A
nonelective state officer may not accept an offer to serve in
another nonelective office unless the officer obtains from the
governing body or, if there is not a governing body, the executive
head of the agency, division, department, or institution with which
the officer is associated a finding that the officer has satisfied
Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more
than one municipality at the same time if each office is filled by
appointment. The holding of these offices at the same time is of
benefit to this state.

SECTION 2. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
S.B. No. 1173

President of the Senate

I hereby certify that S.B. No. 1173 passed the Senate on April 9, 1997, by the following vote: Yeas 31, Nays 0.

Speaker of the House

Secretary of the Senate

I hereby certify that S.B. No. 1173 passed the House on April 22, 1997, by the following vote: Yeas 124, Nays 13, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor
To: Honorable Rodney Ellis, Chair  
    Committee on Jurisprudence  
    Senate  
    Austin, Texas

IN RE: Senate Bill No. 1173,  
    Committee Report 1st House,  
    Substituted  
    By: Duncan

From: John Keel, Director

In response to your request for a Fiscal Note on SB1173 (relating to holding at the same time more than one office of municipal judge filled by appointment) this office has determined the following:

| Biennial Net Impact to General Revenue Funds by SB1173-Committee Report 1st House, Substituted |
|                                                                                          |
| No fiscal implication to the State is anticipated.                                         |

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.

Source: Agencies: 212 Office of Court Administration  
LBB Staff: JK, BB, DC
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

March 31, 1997

To: Honorable Rodney Ellis, Chair
   Committee on Jurisprudence
   Senate
   Austin, Texas

IN RE: Senate Bill No. 1173
By: Duncan

From: John Keel, Director

In response to your request for a Fiscal Note on SB1173 (Relating to additional officeholdings by municipal court judges.) this office has determined the following:

---

Biennial Net Impact to General Revenue Funds by SB1173-As Introduced

No fiscal implication to the State is anticipated.

---

The bill would permit a person to hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. It is estimated that this bill would result in some savings for cities who share the expense of a judge's compensation with other cities.

Source: Agencies: 212 Office of Court Administration

LBB Staff: JK, BB, DC
President of the Senate

I hereby certify that S.B. No. 145 passed the Senate on April 9, 1997, by the following vote: Yeas 31, Nays 0.

Speaker of the House

Secretary of the Senate

I hereby certify that S.B. No. 1173 passed the House on April 22, 1997, by the following vote: Yeas 142, Nays 13, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor
A BILL TO BE ENTITLED
AN ACT: relating to additional officehandlings by municipal court judges.

MAR 1 1 1997 Filed with the Secretary of the Senate
MAR 1 7 1997 Read and referred to Committee on JURISPRUDENCE
APR 0 4 1997 Reported favorably
APR 0 9 1997 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time. Ordered not printed
APR 0 9 1997 Laid before the Senate
APR 0 9 1997 Senate and Constitutional Rules to permit consideration suspended by: 
APR 0 9 1997 Read second time,  , and ordered engrossed by: 
APR 0 9 1997 Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.
APR 0 9 1997 Read third time,  , and passed by: 

SECRETARY OF THE SENATE

OTHER ACTION:
APR 0 9 1997 Engrossed
APR 0 9 1997 Sent to House
APR 1 0 1997 Received from the Senate
APR 1 1 1997 Read first time and referred to Committee on Judicial Affairs
APR 1 5 1997 Reported favorably (amended) (as substituted)
APR 1 7 1997 Sent to Committee on (Calendars) (Local & Consent Calendars)
APR 2 1 1997 Read second time (amended) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of  ,  ,  ,  , present, not voting)
APR 2 2 1997 Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of  ,  ,  , present, not voting.
APR 2 2 1997 Read third time (amended); finally passed (failed) by a (amended)
(record vote of 124 yeas, 13 nays, 2 present, not voting)
APR 2 2 1997 Returned to Senate.

CHIEF CLERK OF THE HOUSE

APR 2 2 1997 Returned from House without amendment.
APR 2 2 1997 Returned from House with  amendments.
APR 2 2 1997 Concurred in House amendments by a viva voce vote  ,  .
Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

Senate conferees instructed.

Senate conferees appointed: __________________________ , Chairman; __________________________
________________________ , __________________________, and __________________________

House granted Senate request. House conferees appointed: __________________________ , Chairman;
________________________ , __________________________, __________________________.

Conference Committee Report read and filed with the Secretary of the Senate.

Conference Committee Report adopted on the part of the House by:

a viva voce vote

_____ yeas, _____ nays

Conference Committee Report adopted on the part of the Senate by:

a viva voce vote

_____ yeas, _____ nays

OTHER ACTION:

Recommitted to Conference Committee

Conferees discharged.

Conference Committee Report failed of adoption by:

a viva voce vote

_____ yeas, _____ nays