

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY- FIFTH DAY

(Continued)

(Tuesday, May 22, 2007)

AFTER RECESS

The Senate met at 10:36 a.m. and was called to order by Dean Whitmire.

The Reverend Barry Chinn, Cowboy Church of Travis County, Manchaca, offered the invocation as follows:

Almighty creator, we are grateful for this day and the freedoms we enjoy. Deliver us from the spirit ingratitude. We ask Your blessings upon the gentlemen and gentlewomen of the Senate. Let us not take them nor their labor for granted. The work before them is significant and far-reaching. Give them wisdom and strength for the task. May the laws they enact prove to benefit all the citizens of the great State of Texas. May Texas always be a land of opportunity to all who call her home. Now may we use all the resources of Texas wisely with an eye to leave a legacy of plenty for the future peoples who dwell here. Amen.

CO-AUTHOR OF SENATE BILL 2049

On motion of Senator Zaffirini, Senator Ellis will be shown as Co-author of **SB 2049**.

CO-AUTHORS OF SENATE CONCURRENT RESOLUTION 84

On motion of Senator Watson, Senators Lucio and Zaffirini will be shown as Co-authors of **SCR 84**.

CO-SPONSORS OF HOUSE BILL 13

On motion of Senator Carona, Senators Patrick and West will be shown as Co-sponsors of **HB 13**.

CO-SPONSORS OF HOUSE BILL 14

On motion of Senator Nelson, Senators Patrick and Seliger will be shown as Co-sponsors of **HB 14**.

CO-SPONSORS OF HOUSE BILL 109

On motion of Senator Averitt, Senators Shapleigh, West, and Zaffirini will be shown as Co-sponsors of **HB 109**.

CO-SPONSORS OF HOUSE BILL 438

On motion of Senator Hegar, Senators Nichols and Patrick will be shown as Co-sponsors of **HB 438**.

CO-SPONSOR OF HOUSE BILL 1022

On motion of Senator Williams, Senator Brimer will be shown as Co-sponsor of **HB 1022**.

CO-SPONSOR OF HOUSE BILL 1168

On motion of Senator Shapleigh, Senator Van de Putte will be shown as Co-sponsor of **HB 1168**.

CO-SPONSOR OF HOUSE BILL 1214

On motion of Senator Fraser, Senator Van de Putte will be shown as Co-sponsor of **HB 1214**.

CO-SPONSOR OF HOUSE BILL 1287

On motion of Senator Estes, Senator Nichols will be shown as Co-sponsor of **HB 1287**.

CO-SPONSOR OF HOUSE BILL 2238

On motion of Senator Shapiro, Senator West will be shown as Co-sponsor of **HB 2238**.

CO-SPONSOR OF HOUSE BILL 3443

On motion of Senator West, Senator Nelson will be shown as Co-sponsor of **HB 3443**.

CO-SPONSOR OF HOUSE BILL 3678

On motion of Senator Williams, Senator Jackson will be shown as Co-sponsor of **HB 3678**.

CO-SPONSOR OF HOUSE BILL 3732

On motion of Senator Averitt, Senator West will be shown as Co-sponsor of **HB 3732**.

CO-SPONSOR OF HOUSE JOINT RESOLUTION 54

On motion of Senator Williams, Senator Brimer will be shown as Co-sponsor of **HJR 54**.

CO-SPONSORS OF HOUSE JOINT RESOLUTION 90

On motion of Senator Nelson, Senators Shapleigh and Van de Putte will be shown as Co-sponsors of **HJR 90**.

SENATE RESOLUTION 1100

Senator Seliger offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize William D. Hicks, Sr., on the occasion of his retirement as ninth-grade head football coach of Amarillo High School; and

WHEREAS, Coach Bill Hicks has been involved with sports since his childhood when he played Little League in Arkansas; he had the distinction of being the first high school athlete in Arkansas to be named to the High School All-Star team three years in a row and was on the *Teen Magazine* All-American Football Team; he was an exemplary student and a role model to his classmates during the difficult years of integration in Little Rock; and

WHEREAS, He has been a coach and an educator at Amarillo High School since 1998; in addition to football, he coached for the school's soccer program for eight years and track for one year, taught world history, and was the athletic liaison for junior high feeder schools; and

WHEREAS, His previous high school coaching and teaching assignments were at Goddard Junior High School in Midland, Stroman High School in Victoria, and Lake View High School in San Angelo; and

WHEREAS, In higher education, his coaching career began when he served as a freshman assistant coach at Baylor University in 1962; after coaching at Texas A&M University-Kingsville and West Virginia University, he returned to Baylor as defensive line coach and served from 1969 to 1981; and

WHEREAS, He was the athletic director and head football coach at Howard Payne University in Brownwood from 1982 to 1985, and he coached defensive tackles at The University of Texas at Austin from 1986 to 1989; and

WHEREAS, Throughout his career, Bill Hicks has demonstrated exceptional commitment to his roles as a coach and an educator; he has been a positive influence on the lives of many young people, and his presence at Amarillo High School will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend William D. "Bill" Hicks, Sr., on his dedication and his outstanding leadership as a coach and an educator and extend to him best wishes for the future; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

SR 1100 was read and was adopted without objection.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate William D. Hicks, Sr., football coach of Amarillo High School in Amarillo, accompanied by his wife, Iris.

The Senate welcomed its guests.

SENATE RESOLUTION 1041

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Charles R. "Chuck" Courtney on the occasion of his retirement as president of the Texas Retailers Association; and

WHEREAS, Chuck Courtney began his retail association career in 1984 by serving as a lobbyist and as director of public affairs; in 2001, he became only the third president of the association, succeeding 35-year veteran Mickey Moore; and

WHEREAS, During his tenure as president, Chuck has played an important role in the association's successful negotiations with the legislature regarding taxes and other issues; he has been a positive influence on the association's ability to forge a closer relationship with such groups as grocers and independent pharmacists, which in other states are often at odds with the retail industry; and

WHEREAS, A former administrative assistant to Gibson D. Lewis, speaker of the Texas House of Representatives, Chuck has served our state and the Texas Retailers Association with dedication and distinction; he is truly deserving of recognition for his many achievements; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Charles R. Courtney for his leadership and many years of service to the Texas Retailers Association and extend to him best wishes for the retirement years ahead; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

SR 1041 was again read.

The resolution was previously adopted on Monday, May 21, 2007.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate Charles R. "Chuck" Courtney, President, Texas Retailers Association; accompanied by his wife, Terry; Dean Elliot; Jason Cooper; Brad Shields; Joe Williams; and Ashley Royer.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Deuell was recognized and presented Dr. Shashi Mittal of Garland as the Physician of the Day.

The Senate welcomed Dr. Mittal and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

COMMITTEE SUBSTITUTE HOUSE BILL 4091 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4091** at this time on its second reading:

CSHB 4091, Relating to the boundaries and board of directors of Harris County Improvement District No. 6.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4091 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4091** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate students and their teachers from Trinity Episcopal School in Austin.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 914 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 914** at this time on its second reading:

CSHB 914, 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.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

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 S.B. No. 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 S.B. No. 103 have no effect.

(4) Renumber the SECTIONS of the bill appropriately.

The amendment to **CSHB 914** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 914 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 914 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 914** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate students and their parents from Westwood Elementary School in Friendswood.

The Senate welcomed its guests.

HOUSE BILL 4044 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4044** at this time on its second reading:

HB 4044, Relating to the qualifications and method of electing directors of the Mustang Special Utility District.

The bill was read second time and was passed to third reading by a viva voce vote:

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4044 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4044** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1719 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1719** at this time on its second reading:

HB 1719, Relating to requiring landowners to report the burial of certain animal carcasses.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1719 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1719** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 638 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 638** at this time on its second reading:

HB 638, Relating to the issuance of identification cards to certain retired peace officers and to the eligibility of certain retired peace officers to obtain a weapons proficiency certificate.

The bill was read second time.

Senator Watson, on behalf of Senator Hegar, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 638** (Senate committee printing) as follows:

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

SECTION _____. The heading to Section 1701.357, Occupations Code, is amended to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS [CRIMINAL INVESTIGATORS].

(2) In the recital to SECTION 1 of the bill (page 1, line 12), strike "Section 1701.357(c), Occupations Code, is" and substitute "Sections 1701.357(a), (c), and (h), Occupations Code, are".

(3) In SECTION 1 of the bill, insert the following between the recital to that SECTION and the text of amended Subsection (c), Section 1701.357, Occupations Code (page 1, between lines 13 and 14):

(a) This section applies only to:

(1) a peace officer; ~~and~~

(2) a federal criminal investigator designated as a special investigator under Article 2.122, Code of Criminal Procedure; and

(3) a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C and is not otherwise described by Subdivision (1) or (2).

(4) In SECTION 1 of the bill, insert the following immediately after the text of amended Subsection (c), Section 1701.357, Occupations Code (page 1, between lines 32 and 33):

(h) The head of a state law enforcement agency may allow an honorably retired federal criminal investigator or a qualified retired law enforcement officer to whom this section applies an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, an honorably retired peace officer as described by this section. The agency shall issue a certificate of proficiency to an honorably retired federal criminal investigator or a qualified retired law enforcement officer who otherwise meets the requirements of this section and shall maintain records regarding the issuance of that certificate.

The amendment to **HB 638** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Eltife and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 638 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 638 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 638** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 618 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 618** at this time on its second reading:

HB 618, Relating to the eligibility of emergency medical services personnel to participate in a low-interest home loan program offered by the state.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 618 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 618** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3123 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3123** at this time on its second reading:

HB 3123, Relating to involvement in charitable events by holders of alcoholic beverage licenses and permits.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3123 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3123** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE JOINT RESOLUTION 72 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 72** at this time on its second reading:

CSHJR 72, Proposing a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE JOINT RESOLUTION 72 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHJR 72** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1318 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1318** at this time on its second reading:

HB 1318, Relating to retirement systems for police officers in certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1318 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1318** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 53 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 53** at this time on its second reading:

CSHB 53, Relating to the designation of the Cesar Chavez Border Highway and the designation by name of other parts of the highway system.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 53** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.070 to read as follows:

Sec. 225.070. DR. HECTOR P. GARCIA MEMORIAL HIGHWAY. (a) The portion of State Highway 286 between State Highway 357 and Interstate Highway 37 in Corpus Christi is designated as Dr. Hector P. Garcia Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Dr. Hector P. Garcia Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

The amendment to **CSHB 53** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 53 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 53 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 53** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 52 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 52** at this time on its second reading:

HB 52, Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 52 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 52** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate students and their teachers from Casis Elementary School in Austin.

The Senate welcomed its guests.

HOUSE BILL 4109 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4109** at this time on its second reading:

HB 4109, Relating to the administration, powers, including taxing powers and the authority to issue bonds, boundaries, operations, financing, and dissolution of the Town Center Improvement District of Montgomery County, Texas.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4109** (Senate committee printing) in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the article accordingly:

SECTION ____. Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 7F to read as follows:

Sec. 7F. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES.

(a) In this section, "fire protection personnel" has the meaning assigned by Section 419.021, Government Code.

(b) The district may employ, contract with, or otherwise engage other persons or entities, including fire protection personnel, to provide, improve, enhance, and support fire protection and emergency medical services in and adjacent to the district.

(c) Before January 1, 2010, the district may not directly employ any fire protection personnel. This subsection expires January 1, 2010.

The amendment to **HB 4109** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 4109** (Senate committee printing) in Article 2 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the article accordingly:

SECTION ____ Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 7G to read as follows:

Sec. 7G. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The board 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.

The amendment to **HB 4109** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4109 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4109 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 14 ON SECOND READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **HB 14** at this time on its second reading:

HB 14, Relating to reorganizing certain state institutions that provide financing for cancer research, including creating the Cancer Prevention and Research Institute of Texas, and information about certain cancer treatments; granting authority to issue bonds.

The motion prevailed.

Senators Brimer, Carona, Eltife, Fraser, Hegar, and Nichols asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 14** (Senate committee printing) as follows:

(1) In SECTION 4 of the bill, in added Subsection (e), Section 102.203, Health and Safety Code (page 8, line 30), strike "Not more than 10 percent" and substitute "At least 20 percent".

(2) In SECTION 4 of the bill, in added Subsection (e), Section 102.203, Health and Safety Code (page 8, line 31), strike "may be used" and substitute "shall be used".

The amendment to **HB 14** was read.

On motion of Senator Nelson, Floor Amendment No. 1 was tabled by the following vote: Yeas 23, Nays 8.

Yeas: Brimer, Deuell, Duncan, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams.

Nays: Averitt, Carona, Ellis, Eltife, Fraser, Hegar, Lucio, Zaffirini.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 14** (Senate committee printing) as follows:

(1) In SECTION 4 of the bill, in added Subsection (e), Section 102.203, Health and Safety Code (page 8, line 30), strike "Not more than 10 percent" and substitute "At least 10 percent".

(2) In SECTION 4 of the bill, in added Subsection (e), Section 102.203, Health and Safety Code (page 8, 31), strike "may be used" and substitute "shall be used".

The amendment to **HB 14** was read.

On motion of Senator Nelson, Floor Amendment No. 2 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Brimer, Deuell, Duncan, Estes, Gallegos, Harris, Hinojosa, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Van de Putte, Watson, Wentworth, Whitmire, Williams.

Nays: Averitt, Carona, Ellis, Eltife, Fraser, Hegar, Jackson, Lucio, Shapleigh, Uresti, West, Zaffirini.

HB 14 was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Brimer, Carona, Eltife, Fraser, Hegar, Nichols.

HOUSE BILL 14 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 14** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Averitt, Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Carona, Eltife, Fraser, Hegar, Nichols.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

REMARKS ORDERED PRINTED

On motion of Senator Patrick and by unanimous consent, the exchange between Senator Nelson and Senator Patrick to establish legislative intent regarding **HB 14** was ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Patrick: Thank you Mr. President. Members, thank you, Senator. Working with you this session on Health and Human Services, Senator, has been a privilege, and I know that you are very concerned about the health of all Texans no matter what county they live in, what region of the state, what illness, what disease, and we have spent a considerable amount of money to try and help those in need in our state. This is a bill that, I think, is difficult for some of us on the economic level, not on the intent of this, because as you've well indicated, cancer is a devastating disease, first, to families, second, to our economy. And, so I will be supporting you on this bill, and I wanted to ask a couple of questions to be sure that I understood totally and that maybe some other Members understood totally. First of all, this will go to the people for a vote?

Senator Nelson: That is correct.

Senator Patrick: So the people of Texas will decide if they want to spend this money?

Senator Nelson: No, actually, they will decide whether they want to authorize the \$3 billion bonding. The money won't be spent until the Legislature determines each biennium whether they want to use \$300 million of General Revenue or whether they want to tap into that bonding authority. I would also add that it is my hope that we can have some great discoveries so that some of this funding will come from royalties and, I think, that's, patents, thank you, I was looking for that word, that, you know, will help us pay for some of this.

Senator Patrick: And there is language in the bill that will make sure that we receive some of that money from patents?

Senator Nelson: Oh, absolutely, patents, royalties, license fees, you know, we had, I don't know where that number is, but already from other kinds of research, Texas has drawn down some really nice funding, and that is my hope.

Senator Patrick: And while it is an expense and a debt that we would have to repay if we don't use GR, it is an investment in not only the health of Texans but, hopefully, if cures are found, we will save much more money than we are borrowing because of the cost every year far out seeds the investment.

Senator Nelson: You know, Senator Patrick, you're a good conservative, and I'm glad you asked that, because I'm not sure everybody's hearing what I'm saying. Cost to Texas, Texas, right now, is paying, I've got great data here that I've acquired from some very reputable resources, Senator Patrick—

Senator Patrick: Yes.

Senator Nelson: Right now, Texas is paying almost \$30 billion a year in cancer costs.

Senator Patrick: Thirty billion.

Senator Nelson: Thirty billion, that's with a B, I thought it was million. It—

Senator Patrick: So, so—

Senator Nelson: Billion with a B.

Senator Patrick: So we're investing 1 percent on a biannual basis as an investment to try and—

Senator Nelson: Yes.

Senator Patrick: Save some of that 30 billion.

Senator Nelson: Yes. It's amazing to me that we wouldn't invest in that to try to cut those costs. Senator Duncan, very concerned about ERS, TRS costs, this would help. Medicaid costs, we spend a lot of time working on it. This would help. But you know what, Senator Patrick, I don't want to talk about the dollars. I'm more concerned about the lives. Yes, it will save us money. Yes, I think the public will overwhelmingly support this investment. It will save us lives, not just in Texas but globally it will save us lives. It's just mind-boggling to me that anybody would oppose this.

Senator Patrick: My father died of cancer in 2002 and, while I never try and support legislation because of a personal issue, I know that my father is just one of many parents that Texans have lost, or wives, or husband, or children, or brothers and sisters. So you're right, this is about saving lives, and it is an economic issue because we must balance the two. That is our job. We could spend money on every emotional issue to save every life possible and there aren't enough dollars in the state, but this is surely, seems to be the need. Let me ask you a concern I have about the bill. Under ethics, I'm concerned, Senator, that this bill could be seen by some as an opportunity for embryonic stem cell research because we are giving these research institutions in these great hospitals that we have, we're giving them a significant amount of money, and we are allowing them to go down a trail of research. What in this bill protects Texans' tax dollars from being spent on embryonic stem cell research?

Senator Nelson: Senator, when I was first approached with this, that was one of my questions as well. And I know there are diverse opinions on this issue. It was very important to me that there be language in this bill that ensures that we are complying with federal and state laws. If you'll look on page 10 of the bill, line 31, Section 102.261 under medical ethics—

Senator Patrick: I have it here on my computer.

Senator Nelson: There is a provision there that requires that we comply with all federal and state laws regarding the conduct of research. Now, Senator, before you got here, I know, at least the last three sessions, we've had discussions, debates, bills filed on both sides of the stem cell (inaudible). I think, Senator, we had an interim charge one year on, one of our interim charges was on stem cell. I don't want this bill to be the podium for that discussion or the vehicle for something to take place that could have opposition on either side of the discussion. So the language that we put in this bill specifically requires research to comply with all state and federal laws regarding medical ethics.

Senator Patrick: Which now prohibits—

Senator Nelson: That's correct.

Senator Patrick: Tax dollars being spent. So the legislative intent, I just want to be sure for the record, which I will ask permission to be reduced to writing, the legislative intent of this is to focus on a cure for cancer and not as a vehicle for some researches, researchers to use tax dollars for embryonic stem cell research.

Senator Nelson: That is absolutely correct, Senator.

Senator Patrick: And in the future, because your language under ethics says, based on state and federal law, obviously, laws can change, particularly at the federal level, particularly with changes of administration, potentially. If that were to occur, what safeguards to those of us who believe in adult stem cell research but do not believe in embryonic stem cell research, what safeguards do we have in the future? Do we have the ability to stop funding in the future on this Senate floor?

Senator Nelson: What you have the ability to do, because you are looking at a House Bill that can be changed every session, what you have the ability to do is to change state law regarding stem cell research. And, again, that's a whole different discussion, and this bill says whatever state and federal law are, we will, the cancer institute will comply with. So if that discussion takes place, then whatever the bill, the outcome of the legislation is, those who receive this funding will comply with.

Senator Patrick: So the voters will decide if we can grant the funding, we will have a decision every two years whether or not to fund, we will have a decision either to spend direct General Revenue dollars so we don't go into debt if the money is available, or we can create bonds in which we pay the interest on, and this bill is not a vehicle for embryonic stem cell research.

Senator Nelson: Everything correct, except one thing, we won't have the ability to determine whether or not to fund. We will fund \$300 million every year over the next 10 years for the cancer institute. Now, our ability will be to determine whether to use General Revenue, whether to use bonding money, but we, I want to make sure

everybody in the outside world that's looking at Texas as the next premier site for research and cancer to find a cure knows that our commitment, when we pass this legislation is, we're going to fund \$300 million every year for the next 10 years.

Senator Patrick: Thank you Senator.

REASON FOR VOTE

Senator Eltife submitted the following reason for vote on **HB 14**:

I cast a "no" vote on **HB 14** because while I support Senator Nelson's efforts to fund cancer research, I prefer spending general revenue for this effort rather than borrowing money.

ELTIFE

HOUSE BILL 967 REREFERRED

Senator Zaffirini submitted a Motion In Writing requesting that **HB 967** be withdrawn from the Committee on Natural Resources and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

HOUSE JOINT RESOLUTION 90 ON SECOND READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **HJR 90** at this time on its second reading:

HJR 90, Proposing a constitutional amendment providing for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of general obligation bonds for the purpose of scientific research of all forms of human cancer.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Brimer, Carona, Eltife, Fraser, Hegar, Nichols.

The resolution was read second time.

Senator Ogden offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **HJR 90** (Senate committee printing) in SECTION 1 of the resolution, in proposed Subsection (c), Section 67, Article III, Texas Constitution (page 1, line 44), between "agreements." and "The", by inserting "The Texas Public Finance Authority may not issue more than \$300 million in bonds authorized by this subsection in a year."

The amendment to **HJR 90** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Fraser offered the following amendment to the resolution:

Floor Amendment No. 2

Amend **HJR 90** (Senate committee report) in SECTION 1 of the bill, in proposed Subsection (d), Section 67, Article III, Texas Constitution (page 1, lines 51-52) by striking "without appropriation".

The amendment to **HJR 90** was read.

(Senator Brimer in Chair)

Senator Nelson moved to table Floor Amendment No. 2.

The motion to table was lost by the following vote: Yeas 15, Nays 16.

Yeas: Deuell, Gallegos, Harris, Hinojosa, Nelson, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, Whitmire, Williams.

Nays: Averitt, Brimer, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Hegar, Jackson, Janek, Lucio, Ogden, Seliger, West, Zaffirini.

Question recurring on the adoption of Floor Amendment No. 2 to **HJR 90**, the amendment was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Averitt, Brimer, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Hegar, Jackson, Janek, Lucio, Nichols, Ogden, Patrick, Seliger, West, Zaffirini.

Nays: Deuell, Gallegos, Harris, Hinojosa, Nelson, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, Whitmire, Williams.

On motion of Senator Nelson and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

HJR 90 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Averitt, Brimer, Carona, Eltife, Fraser, Hegar, Nichols.

HOUSE JOINT RESOLUTION 90 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 90** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Brimer, Carona, Eltife, Nichols.

The resolution was read third time and was passed by the following vote: Yeas 24, Nays 7.

Yeas: Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Brimer, Carona, Eltife, Fraser, Hegar, Nichols.

REASON FOR VOTE

Senator Eltife submitted the following reason for vote on **HJR 90**:

I cast a "no" vote on **HJR 90** because while I support Senator Nelson's efforts to fund cancer research, I prefer spending general revenue for this effort rather than borrowing money.

ELTIFE

HOUSE CONCURRENT RESOLUTION 151 REREFERRED

Senator Patrick submitted a Motion In Writing requesting that **HCR 151** be withdrawn from the Committee on Government Organization and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider the following bill and resolution today:

HB 967, HCR 151.

RECESS

On motion of Senator Whitmire, the Senate at 2:10 p.m. recessed until 3:15 p.m. today.

AFTER RECESS

The Senate met at 3:17 p.m. and was called to order by the President.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3732 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3732** at this time on its second reading:

CSHB 3732, Relating to the implementation of advanced clean energy projects and other environmentally protective projects in this state.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3732** (Senate committee printing) as follows:

(1) In the recital of SECTION 1 of the bill (page 1, line 14), strike "Section 447.013" and substitute "Sections 447.013 and 447.014".

(2) In SECTION 1 of the bill, following proposed Section 447.013, Government Code (page 2, between lines 14 and 15), add the following:

Sec. 447.014. HYDROGEN ENERGY LOAN PROGRAM. (a) The State Energy Conservation Office shall establish and administer a program to make and guarantee loans to business entities for projects that:

(1) expand the use of carbon-free hydrogen energy in this state; or

(2) relate to the manufacture, storage, distribution, or sale of carbon-free hydrogen energy in this state.

(b) The Texas Public Finance Authority shall issue general obligation bonds in an aggregate amount not to exceed \$250 million as authorized by Section 49-p, Article III, Texas Constitution.

(c) The program may be funded by:

(1) the proceeds of bonds issued under Subsection (c); or

(2) gifts, grants, and donations made for that purpose.

(d) The comptroller may adopt rules to implement this section.

(e) For purposes of this section, hydrogen is considered to be carbon-free if:

(1) any carbon resulting from the production of the hydrogen is captured during production and:

(A) permanently geologically; or

(B) used in the production of other carbon-based products at a rate that exceeds 90 percent of the input; and

(2) Any carbon resulting from the generation of any electricity used in the production of the hydrogen is captured and:

(A) permanently geologically sequestered; or

(B) used in the production of other carbon-based products at a rate that exceeds 90 percent of the input.

(c) For purposes of subsection (e), the generation of wind power, solar power, hydroelectricity, geothermal electricity, tidal electricity, or nuclear power is considered to result in no carbon.

(d) Hydrogen that is generated as a byproduct of the manufacturing of chlorine is considered carbon-free so long as it meets the criteria of subsection (e).

(3) In SECTION 13 of the bill, after "administrative expenses." (page 8, line 40), add "The State Energy Conservation Office shall establish a program under Section 447.014, Government Code, as added by this Act, not later than January 1, 2008."

(4) In SECTION 16 of the bill (page 8, line 51), between "16." and "Section 447.013(j).", insert "(a)".

(5) Add the following to the end of SECTION 16 of the bill (page 8, between lines 58 and 59):

(b) Section 447.014, Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy, is approved by the voters. If that amendment is not approved by the voters, Section 447.014, Government Code, has no effect.

The amendment to **CSHB 3732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 2

Amend Section 4 of **CSHB 3732** by adding the following subsection (d) to new Section 382.0566 of the Health and Safety Code, and renumbering the following subsections accordingly:

(d) The commission shall not issue a permit under this chapter for an advanced clean energy project if emissions from the proposed facility will cause an area to be designated a nonattainment area.

The amendment to **CSHB 3732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

(Senator Eltife in Chair)

Floor Amendment No. 3 was not offered.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3732** by inserting SECTION ___ as follows and renumbering the following SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0174 to read as follows:

Sec. 382.0174. EMISSION REDUCTION STRATEGIES FOR GREENHOUSE GASES. (a) In this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(b) Not later than October 31, 2008, the commission shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that:

(1) may result in net savings for consumers or businesses in this state; or

(2) can be achieved without financial cost to consumers or businesses in this

state.

(c) In preparing the list of emission reduction strategies, the commission shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations.

(d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the commission shall consider the total net costs that may occur over the life of the strategy, as opposed to the short-term capital costs that may result from the implementation of the strategy.

(e) The commission may appoint advisory committees to assist the commission in identifying and evaluating greenhouse gas emission reduction strategies.

The amendment to **CSHB 3732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3732** by striking SECTION 3 of the bill and substituting the following appropriately numbered SECTION:

SECTION __. Section 382.0518, Health and Safety Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) In considering the issuance of a permit for a new electric generating facility, the commission shall analyze and consider:

(1) the cumulative effects of the facility's expected emissions together with the cumulative effects of the authorized emissions from all sources of pollution permitted under this section, as well as all sources of pollution from electric generating facility applications determined to be technically complete, that are located within a radius of impact specified by commission rule, or 200 km, whichever is greater; and

(2) whether the emissions from the facility will cause an area to be designated a nonattainment area; or

(3) whether the emissions from the facility will negatively affect compliance with the state implementation plan.

AVERITT
WATSON

The amendment to **CSHB 3732** was read and was adopted by the following vote: Yeas 25, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Jackson, Williams.

Absent: Fraser, Hinojosa, Shapiro.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3732**, Senate committee printing, as follows:

1.) On page 2, line 23, strike "hydrogen fuel cells derived from such fuels".

2.) On page 2, line 23, after "solid waste," and before "or" insert the following: "hydrogen derived from the manufacture of chlorine, coke, or other chemical and petrochemical production processes, hydrogen fuel cells powered by such fuels,".

3.) On page 2, line 35 strike the "." and insert the following: "if any carbon dioxide is produced by the project."

4.) On page 4, line 40, between "hydrocarbons" and "without" insert the following: "or hydrogen".

4.) On page 6, line 14, between "hydrocarbons" and "without" insert the following: "or hydrogen".

The amendment to **CSHB 3732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 3732** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION ____ . SELECTIVE CATALYTIC REDUCTION TECHNOLOGY OR LOW TEMPERATURE OXIDATION TECHNOLOGY PILOT. (a) The Texas Commission on Environmental Quality shall select one cement kiln stack in a nonattainment or a near nonattainment area for the purpose of a pilot test to determine the effectiveness of a selective catalytic reduction technology or a low temperature oxidation technology as an advanced control technology for reducing the nitrogen oxides emissions from the cement kiln stack. The Texas Commission on Environmental Quality shall select a selective catalytic reduction technology or a low temperature oxidation technology vendor to provide the selective catalytic reduction technology or low temperature oxidation technology needed to conduct the testing required by this subsection.

(b) The Texas Commission on Environmental Quality shall:

(1) conduct a feasibility study, design, supervise, and monitor the testing required by Subsection (a) of this section in consultation with:

(A) the selective catalytic reduction technology or low temperature oxidation technology vendor selected by the commission;

(B) the owner or operator of the cement kiln stack selected for testing under Subsection (a) of this section;

(C) representatives of a regional council of government of the region in which the cement kiln is located; and

(D) a representative of a citizen environmental advocacy group active within the region; and

(2) verify the accuracy of the results of the testing.

(c) The Texas Commission on Environmental Quality may accept and hold a gift or grant conditioned on its use for testing advanced controls for nitrogen oxides emissions from cement kilns in a nonattainment or near nonattainment area and use such gifts or grants without an appropriation for the pilot test under this section.

(d) The Texas Commission on Environmental Quality shall:

(1) not later than December 31, 2008, complete the selective catalytic reduction technology or low temperature oxidation technology testing required under Subsection (a) of this section; and

(2) not later than January 1, 2009, prepare and deliver to each member of the legislature a report describing:

(A) the results of the testing, including whether any reduction in nitrogen oxides emissions resulted from the use of the selective catalytic reduction technology or low temperature oxidation technology; and

(B) the costs involved in the installation, use, and maintenance of the selective catalytic reduction technology or low temperature oxidation technology.

The amendment to **CSHB 3732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3732 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3732 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3732** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 13 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 13** at this time on its second reading:

CSHB 13, Relating to homeland security issues, including border security issues and law enforcement.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 13** (House committee printing) in SECTION 2 of the bill as follows:

(1) In added Section 51.2125, Education Code (page 2, lines 1-4), strike Subsection (a) and substitute the following:

(a) This section applies only to a private institution of higher education that has a fall head count enrollment of more than 10,000 students and that has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million. For purposes of this section, a private institution of higher education is a private or independent institution of higher education as defined by Section 61.003.

(2) In added Subsection (b), Section 51.2125, Education Code (page 2, lines 5-8), strike "If the institution has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million, in" and substitute "In".

(3) In added Subsection (c), Section 51.2125, Education Code (page 2, line 29), between "of the municipality" and the underlined period, insert ", except that if the agreement is entered into with a municipality with a population of more than one million, the designated geographic area consists of each of the election districts of the municipality's governing body that contains any part of the campus of the institution and each of the election districts of the governing body that is contiguous to another municipality that contains any part of the campus of the institution".

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 13** (Senate committee printing) as follows:

In SECTION 6 of the bill strike proposed section 421.003, Government Code (page 5, lines 43-58), and substitute the following:

Section 421.003, Government Code, subsection (a), **CRIMINAL INTELLIGENCE INFORMATION; DATABASE MAINTENANCE**. (a) The Department of Public Safety of the State of Texas is[~~]~~

~~[(1) the repository in this state for the collection of multijurisdictional criminal intelligence information that is about terrorist activities or otherwise related to homeland security activities; and~~

~~[(2) the state agency that has primary responsibility to analyze and disseminate multijurisdictional criminal intelligence information that is about terrorist activities or otherwise related to homeland security activities [that information]. An agency, other than an agency as defined by Section 2.12, 1-4 of the Code of Criminal Procedures, must obtain the approval of the department before the agency may analyze or disseminate information described by this subsection. An agency other than the department may use information described by this subsection only for a law enforcement or public safety purpose.~~

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 13** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0191 to read as follows:

Art. 42.0191. FINDING REGARDING VICTIMS OF TRAFFICKING OR OTHER ABUSE. (a) In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of

whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(b) That part of the papers in the case containing an affirmative finding under this article:

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION __. Section 5, Article 42.12, Code of Criminal Procedure, is amended by adding Subsections (i) and (j) to read as follows:

(i) If a judge places on community supervision under this section a defendant charged with an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and file a statement of that affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(j) That part of the papers in the case containing an affirmative finding under Subsection (i):

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION __. Section 54.04, Family Code, is amended by adding Subsections (v) and (w) to read as follows:

(v) If the judge orders a disposition under this section for delinquent conduct based on a violation of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(w) That part of the papers in the case containing an affirmative finding under Subsection (v):

(1) must include specific information identifying the victim, as available;
(2) may not include information identifying the victim's location; and
(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION ____ . Section 20A.01, Penal Code, is amended to read as follows:

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:

(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained; ~~or~~

(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:

- (i) government records;
- (ii) identifying information; or
- (iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:

(i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;

(ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or

(iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, ~~[another person or to]~~ entice, recruit, harbor, provide, or otherwise obtain another person by any means ~~[for transport by deception, coercion, or force]~~.

SECTION ____. Sections 20A.02(a) and (b), Penal Code, are amended to read as follows:

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

(1) knowingly traffics another person with the intent or knowledge that the trafficked person will engage in~~+~~

~~[(+)]~~ forced labor or services; or

(2) intentionally or knowingly benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services ~~[conduct that constitutes an offense under Chapter 43]~~.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.02 ~~[offense is committed under Subsection (a)(2)]~~ and the person who is trafficked is younger than 18 ~~[14]~~ years of age at the time of the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION ____. Section 125.002, Civil Practice and Remedies Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION ____. Section 125.045, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION ____. (a) Not later than September 1, 2008, the attorney general, in consultation with the Health and Human Services Commission, shall prepare and issue a report:

(1) outlining how existing laws and rules concerning victims and witnesses address or fail to address the needs of victims of human trafficking; and

(2) recommending areas of improvement and modifications in existing laws and rules.

(b) Not later than September 1, 2008, the Health and Human Services Commission, in consultation with the attorney general, shall prepare and issue a report:

(1) outlining how existing social service programs address or fail to address the needs of victims of human trafficking;

(2) with respect to those needs, outlining the interplay of existing social service programs with federally funded victim service programs; and

(3) recommending areas of improvement and modifications in existing social service programs.

SECTION _____. Sections 20A.01 and 20A.02, Penal Code, as amended by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION _____. Section 125.002(f-1) and Section 125.045(a-1), Civil Practice and Remedies Code, as added by this Act, apply only to a suit filed on or after the effective date of this Act. A suit filed 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.

SECTION _____. The change in law made by this Act in adding Article 42.0191, Code of Criminal Procedure, Sections 5(i) and (j), Article 42.12, Code of Criminal Procedure, and Sections 54.04(v) and (w), Family Code, applies only to a judgment of conviction entered on or after the effective date of this Act, a grant of deferred adjudication made on or after the effective date of this Act, or a disposition of delinquent conduct made on or after the effective date of this Act.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 13** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.2535 to read as follows:

Sec. 1701.2535. TRAINING PROGRAMS: TRAFFICKING OF PERSONS.

(a) The commission shall design and establish a one-time basic education and training program and an advanced education and training program relating to the trafficking of persons. Each program must include a review of the substance of Sections 20A.02 and 43.05, Penal Code.

(b) The basic education and training program must consist of at least four hours of training and must be made available through at least two of the following alternative methods:

- (1) live presentation;
- (2) online presentation;
- (3) video presentation; and
- (4) regional distance learning presentation.

(c) The commission shall:

(1) require each peace officer to complete the basic education and training program; and

(2) make available to each peace officer on a voluntary basis the advanced education and training program.

(d) Not later than September 1, 2012, a peace officer who holds a license issued by the commission before September 1, 2007, shall complete the basic education and training program relating to the trafficking of persons required by this section. This subsection expires September 1, 2013.

(e) Not later than January 1, 2008, the commission shall begin offering the basic and advanced programs established under this section. This subsection expires September 1, 2008.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 13** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter D, Chapter 411, Government Code, is amended by adding Sections 411.052 and 411.0521 to read as follows:

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this section, "federal prohibited person information" means information that identifies an individual as:

(1) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) a person with mental retardation committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(3) an incapacitated adult individual for whom a court has appointed a guardian with full authority over the individual under Chapter XIII, Probate Code;

(4) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(5) a person acquitted in a criminal case by reason of insanity.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited person information

under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) The department shall grant access to federal prohibited person information to the person who is the subject of the information.

(d) Federal prohibited person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, may not be disseminated by the department.

(e) The department by rule shall establish a procedure to correct the department's records and update the information sent to the Federal Bureau of Investigation when a person provides:

(1) proof that the person has obtained notice of relief from disabilities under 27 C.F.R. Section 478.144; and

(2) a copy of a judicial order or finding stating that the person no longer suffers from mental illness or mental retardation or is no longer incompetent to stand trial or an incapacitated adult.

Sec. 411.0521. REPORT BY COURT TO DEPARTMENT OF PUBLIC SAFETY. (a) The clerk of the court shall prepare and forward to the Department of Public Safety the information described by Subsection (b) not later than the 30th day after the date the court:

(1) orders a person to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) commits a person with mental retardation for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(3) appoints a guardian with full authority over an incapacitated adult individual under Chapter XIII, Probate Code;

(4) determines a person is incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(5) acquits a person in a criminal case by reason of insanity.

(b) The clerk of the court shall prepare and forward the following information under Subsection (a):

(1) the complete name, race, and sex of the person;

(2) any known identifying number of the person, including social security number, driver's license number, or state identification number;

(3) the person's date of birth; and

(4) a certified copy of:

(A) the order for inpatient mental health services;

(B) the order committing the person to a residential care facility;

(C) the order appointing a guardian;

(D) the order determining that the person is incompetent to stand trial;

or

(E) the order acquitting a person in a criminal case by reason of insanity.

(c) As soon as practicable after the date the information becomes available, the clerk of the court shall also prepare and forward to the Department of Public Safety the following information regarding a court order previously reported to the department under Subsection (a):

- (1) a subsequent reversal or modification of the order by any court; or
- (2) notification of the expiration of the order, if applicable.

(d) The duty of a clerk to prepare and forward information under this section is not affected by:

- (1) any subsequent appeal of the court order;
- (2) any subsequent modification of the court order; or
- (3) the expiration of the court order.

SECTION _____. Each clerk of the court shall prepare and forward information required to be forwarded to the Department of Public Safety by Section 411.0521, Government Code, as added by this Act, for each order issued on or after September 1, 2003. Not later than September 1, 2008, each clerk of the court shall prepare and forward the information for any court orders issued on or after September 1, 2003, and before September 1, 2007.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Nays: Hegar, Patrick.

Senator West offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 13** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual ~~[person]~~ detained consented to the search; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle ~~[traffic]~~ stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[traffic]~~ stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On notice that a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the Commission on Law Enforcement Officer Standards and Education shall begin disciplinary procedures against the chief administrator of the agency.

SECTION ____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND PEDESTRIAN]~~ STOPS. (a) In this article, "race~~[-~~

~~[(1) "Race]~~ or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance ~~[regulating traffic or who stops a pedestrian for any suspected offense]~~ shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [each] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop ~~[traffic law or ordinance alleged to have been violated or the suspected offense];~~

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [the type] of the contraband or evidence [discovered];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [existed and the facts supporting the existence of that probable cause];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~], including a description of the warning or a statement of the violation charged].~~

SECTION ____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article, "motor vehicle [pedestrian] stop" has the meaning assigned by Article 2.132 ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].~~

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data [information] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [in a manner approved by the agency].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of motor vehicle [~~traffic and pedestrian~~] stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic or pedestrian~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On notice that a law enforcement agency intentionally failed to submit a report required under Subsection (b), the Commission on Law Enforcement Officer Standards and Education shall begin disciplinary procedures against the chief administrator of the agency.

SECTION ____ . Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [~~traffic and pedestrian~~] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle ~~[traffic or pedestrian]~~ stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132.

SECTION ____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION ____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety

under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 15 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION ____. Section 102.061, Government Code, is amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT. The clerk of a statutory county court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$5;
- (6) a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4; ~~and~~
- (7) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . \$5; and
- (8) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

SECTION ____. Section 102.081, Government Code, is amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT. The clerk of a county court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$5; ~~and~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

SECTION ____ . Section 102.101, Government Code, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT. A clerk of a justice court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4; ~~and~~

(6) a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50; ~~and~~

(7) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . \$5; and

(8) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

SECTION ____ . Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

SECTION ____ . Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.162 to read as follows:

Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, and the University of North Texas shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) The commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2008.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is 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 subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Nays: Patrick.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 13**, in Section 8 of the bill, by striking amended Section 421.071, Government Code (committee printing page 6, lines 18 through 26), and substituting the following:

Sec. 421.071. COOPERATION AND ASSISTANCE. (a) A state or local agency that performs a homeland security activity or a nongovernmental entity that contracts with a state or local agency to perform a homeland security activity shall cooperate with and assist the office of the governor, the Homeland Security Council,

the Texas Fusion ~~[Infrastructure Protection Communications]~~ Center, and the National Infrastructure Protection Center in the performance of their duties under this chapter and other state or federal law.

(b) To enhance the protection of critical infrastructure, the Railroad Commission of Texas is granted exclusive original jurisdiction over the location of warning signs, and the design, installation, operation, environmental controls except to the extent those controls are under the jurisdiction of the Texas Commission on Environmental Quality, screening, noise suppression, and all other matters related to facilities appurtenant to natural gas, liquid hydrocarbon, and hazardous materials pipelines, gathering lines that are subject to Railroad Commission safety standards as provided by Sections 117.011 and 117.012, Natural Resources Code, and Section 121.201, Utilities Code, and distribution facilities and operations under Section 81.051, Natural Resources Code. The Railroad Commission may adopt all rules necessary to implement and administer this subsection.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 13** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. (a) Subdivision (3), Section 411.141, Government Code, is amended to read as follows:

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice;

(B) a secure correctional facility as defined by Section 1.07, Penal Code; or

(C) a community supervision and corrections department, parole office, or a local juvenile probation department or parole office ~~[has the meaning assigned by Article 60.01, Code of Criminal Procedure].~~

(b) Section 411.148, Government Code, as reenacted and amended by Chapters 1224 and 1245, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and further amended to read as follows:

Sec. 411.148. MANDATORY DNA RECORD. (a) This section applies to[±

[~~(±)~~] an individual who is:

(1) [~~(A)~~] ordered by a magistrate or court to provide a DNA sample under Section [411.150 or] 411.154 or other law; or

(2) convicted of a felony [~~(B) confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice; or~~

~~[(2) a juvenile who is, after an adjudication for conduct constituting a felony, confined in a facility operated by or under contract with the Texas Youth Commission].~~

(b) This section does not apply to a juvenile who is ordered by a juvenile court to provide a DNA sample under Section 411.150.

(c) An individual described by Subsection (a) shall provide one or more DNA samples for the purpose of creating a DNA record.

(d) ~~[(e)]~~ A criminal justice agency shall collect a sample ordered by a magistrate or court as provided by Subsection (a)(1) in compliance with the order.

(e) During the diagnostic process or at another time determined by the department, ~~[(d) If an individual described by Subsection (a)(1)(B) is received into custody by]~~ the Texas Department of Criminal Justice~~[-, that department]~~ shall collect the sample from an ~~[the]~~ individual described by Subsection (a) who is imprisoned in a penal institution operated by or under contract with the department or who is under the supervision of the pardons and paroles division of ~~[during the diagnostic process or at another time determined by]~~ the Texas Department of Criminal Justice. If an individual described by Subsection (a) is in the custody or under the supervision of another criminal justice agency such as a community supervision and corrections department, that agency shall collect the sample from the individual at a time determined by the agency.

~~[(e) If an individual described by Subsection (a)(2) is received into custody by the Texas Youth Commission, the youth commission shall collect the sample from the individual during the initial examination or at another time determined by the youth commission.]~~

(f) If an individual described by Subsection (a) is due to be released from a penal institution operated by or under contract with the Texas Department of Criminal Justice, the ~~[The]~~ Texas Department of Criminal Justice shall notify the director of the individual's release ~~[that an individual described by Subsection (a) is to be released from custody]~~ not earlier than the 120th day before the individual's release date and not later than the 90th day before the individual's release date. ~~[The Texas Youth Commission shall notify the director that an individual described by Subsection (a) is to be released from custody not earlier than the 10th day before the individual's release date.]~~ The Texas Department of Criminal Justice ~~[and the Texas Youth Commission]~~, in consultation with the director, shall determine the form of the notification described by this subsection.

(g) A medical staff employee of a criminal justice agency may collect a voluntary sample from an individual at any time.

(h) An employee of a criminal justice agency may use force against an individual required to provide a DNA sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to collect the sample.

(i) ~~If [(1) The Texas Department of Criminal Justice as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(1)(B) if:~~

~~[(A) the individual is confined in another penal institution after sentencing and before admission to the department; and~~

~~[(B) the department determines that the individual is likely to be released before being admitted to the department.~~

~~[(2) The administrator of the other penal institution shall cooperate with the Texas Department of Criminal Justice as necessary to allow the Texas Department of Criminal Justice to perform its duties under this subsection.~~

~~[(j)(1) The Texas Youth Commission as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(2) if:~~

~~[(A) the individual is detained in another juvenile detention facility after adjudication and before admission to the youth commission; and~~

~~[(B) the youth commission determines the individual is likely to be released before being admitted to the youth commission.~~

~~[(2) The administrator of the other juvenile detention facility shall cooperate with the Texas Youth Commission as necessary to allow the youth commission to perform its duties under this subsection.~~

~~[(k) When]~~ a criminal justice agency of this state agrees to accept custody or supervision of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the acceptance is conditional on the individual providing a DNA sample under this subchapter if the individual was convicted of a felony.

(j) ~~[(4)]~~ If, in consultation with the director, it is determined that an acceptable sample has already been received from an individual, additional samples are not required unless requested by the director.

(c) Section 411.150, Government Code, is amended to read as follows:

Sec. 411.150. DNA RECORDS OF CERTAIN JUVENILES. (a) A juvenile to whom this section applies ~~[who is committed to the Texas Youth Commission]~~ shall provide one or more DNA ~~[blood]~~ samples or other specimens ~~[taken by or at the request of the commission]~~ for the purpose of creating a DNA record if the juvenile has not already provided the required sample ~~[specimen]~~ under other state law or if the director makes a request for the sample as described by Subsection (h). If the juvenile is committed to or under the supervision of the commission, the Texas Youth Commission shall collect the sample during the initial examination or at another time determined by the commission. If the juvenile is in the custody or under the supervision of another criminal justice agency such as a local juvenile probation department, that agency shall collect the sample from the juvenile at a time determined by the agency [and if the juvenile is ordered by a juvenile court to give the sample or specimen or is committed to the commission for an adjudication as having engaged in delinquent conduct that violates:

~~[(1) an offense:~~

~~[(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);~~

~~[(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or~~

~~[(C) for which the juvenile is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or~~

~~[(2) a penal law if the juvenile has previously been convicted of or adjudicated as having engaged in:~~

~~[(A) a violation of a penal law described in Subsection (a)(1); or
(B) a violation of a penal law under federal law or the laws of another state that involves the same conduct as a violation of a penal law described by Subsection (a)(1)].~~

(b) This section applies to a juvenile who is:

(1) adjudicated as having engaged in conduct constituting the commission of a felony;

(2) committed to the Texas Youth Commission and ordered by a juvenile court to give a DNA sample; or

(3) committed to the Texas Youth Commission for an adjudication as having engaged in delinquent conduct that violates a misdemeanor penal law if in this state, in another state, or under federal law the juvenile has previously been convicted of or adjudicated as having engaged in conduct constituting the commission of a felony
~~[The department, in conjunction with the Texas Youth Commission, shall adopt rules regarding the collection, preservation, and shipment of a blood sample or other specimen of a juvenile described by this section].~~

(c) A criminal justice agency shall collect a sample ordered by a juvenile court as provided by Subsection (b)(2) in compliance with the order
~~[The Texas Youth Commission shall:~~

~~(1) obtain blood samples or other specimens from juveniles under this section;~~

~~(2) preserve each sample or other specimen collected;~~

~~(3) maintain a record of the collection of the sample or specimen; and~~

~~(4) send the sample or specimen to the director for scientific analysis under this subchapter].~~

(d) A medical staff employee of a criminal justice agency
~~[the Texas Youth Commission]~~ may obtain a voluntary sample or specimen from any juvenile.

(e) An employee of a criminal justice agency
~~[the Texas Youth Commission]~~ may use force against a juvenile required to provide a sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to obtain the sample or specimen.

(f) If a juvenile to whom this section applies is due to be released from a facility operated by or under contract with the commission, the Texas Youth Commission shall notify the director of the juvenile's release not earlier than the 10th day before the juvenile's release date. The Texas Youth Commission, in consultation with the director, shall determine the form of the notification described by this subsection.

(g) If a criminal justice agency of this state agrees to accept custody or supervision of a juvenile from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the acceptance is conditional on the juvenile providing a DNA sample under this subchapter if the juvenile was adjudicated as having engaged in conduct constituting the commission of a felony.

(h) If, in consultation with the director, it is determined that an acceptable sample has already been received from a juvenile, additional samples are not required unless requested by the director
~~[The Texas Youth Commission may contract with an individual or entity for the provision of phlebotomy services under this section].~~

(d) Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) A judge granting community supervision to a defendant convicted of a felony shall require that the defendant, as a condition of community supervision, provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under other state law.

(e) Chapter 54, Family Code, is amended by adding Section 54.0409 to read as follows:

Sec. 54.0409. DNA SAMPLE REQUIRED ON FELONY ADJUDICATION. If a court or jury makes a disposition under Section 54.04 in which a child adjudicated as having engaged in conduct constituting the commission of a felony is placed on probation, the court shall require as a condition of probation that the child provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the child, unless the child has already submitted the required sample under other state law.

(f) Subchapter F, Chapter 508, Government Code, is amended by adding Section 508.1861 to read as follows:

Sec. 508.1861. DNA SAMPLE REQUIRED ON FELONY CONVICTION. A parole panel shall require as a condition of parole or mandatory supervision that a releasee convicted of a felony provide a DNA sample under Subchapter G, Chapter 411, for the purpose of creating a DNA record of the releasee, unless the releasee has already submitted the required sample under other state law.

(g) Subchapter F, Chapter 61, Human Resources Code, is amended by adding Section 61.0814 to read as follows:

Sec. 61.0814. DNA SAMPLE REQUIRED ON FELONY ADJUDICATION. Before releasing a child adjudicated as having engaged in conduct constituting the commission of a felony under supervision, the commission shall require as a condition of release that the child provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the child, unless the child has already submitted the required sample under other state law.

(h) Except as provided by Subsection (i) of this section, the change in law made by this section to Chapter 411, Government Code, applies to an individual who:

(1) before September 1, 2007, was not otherwise required by state law to provide a DNA sample; and

(2) is convicted of committing an offense or is adjudicated as having engaged in conduct constituting the commission of an offense on or after September 1, 2007.

(i) As required by Section 411.148, Government Code, as amended by this section:

(1) the Texas Department of Criminal Justice shall collect a DNA sample from each individual who was convicted of an offense before September 1, 2007, from whom a DNA sample was not required before September 1, 2007, and who on or after September 1, 2007, is:

(A) imprisoned in a penal institution operated by or under contract with the Texas Department of Criminal Justice; or

(B) placed under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice; and

(2) any other appropriate criminal justice agency shall collect a DNA sample from an individual who was convicted of an offense before September 1, 2007, from whom a DNA sample was not required before September 1, 2007, and who on or after September 1, 2007, is in the custody or placed under the supervision of that agency.

(j) As required by Section 411.150, Government Code, as amended by this section:

(1) the Texas Youth Commission shall collect a DNA sample from a juvenile who was adjudicated as having engaged in conduct constituting the commission of an offense before September 1, 2007, from whom a DNA sample was not required before September 1, 2007, and who on or after September 1, 2007, is committed to or placed under the supervision of the Texas Youth Commission; and

(2) any other appropriate criminal justice agency shall collect a DNA sample from a juvenile who was adjudicated as having engaged in conduct constituting the commission of an offense before September 1, 2007, from whom a DNA sample was not required before September 1, 2007, and who on or after September 1, 2007, is in the custody or placed under the supervision of the agency.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 13** (Senate committee printing) by inserting the following sections and renumbering accordingly.

SECTION __. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.27 to read as follows:

Art. 43.27. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. The Texas Innocence Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of nine members.

The governor shall appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. The lieutenant governor shall appoint one member, who may be a member of the legislature. The speaker of the house of representatives shall appoint one member, who may be a member of the legislature. The presiding judge of the court of criminal appeals shall appoint one member, who must be a member of the judiciary. The presiding officer of the Texas Forensic Science Commission shall appoint one member, who must work in the forensic science field. The Texas District and County Attorneys Association shall appoint one member, who must be a prosecuting attorney. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer. The president of the Texas Center for Actual Innocence at The University of Texas School of Law, the director of the innocence project at the University of Houston Law Center, or the director of the innocence project at the

Texas Tech University School of Law, on a rotating basis, shall appoint one member, who must be an attorney with experience in filing successful appellate claims based on actual innocence.

(b) Each member serves a two-year term.

(c) The governor shall designate a member to serve as presiding officer.

Sec. 3. DUTIES. (a) The commission shall investigate thoroughly all postconviction exonerations, including convictions vacated based on a plea to time served, to:

(1) ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue;

(2) identify errors and defects in the criminal justice process in this state generally;

(3) develop solutions and methods to correct the identified errors and defects; and

(4) identify procedures and programs to prevent future wrongful convictions.

(b) The commission may enter into contracts for research services as considered necessary to complete the investigation of a particular case, including forensic testing and autopsies.

Sec. 4. REPORT. (a) The commission shall compile a detailed annual report of its findings and recommendations, including any proposed legislation to implement procedures and programs to prevent future wrongful convictions or executions.

(b) The report shall be made available to the public on request.

(c) The findings and recommendations contained in the report may not be used as binding evidence in a subsequent civil or criminal proceeding.

Sec. 5. SUBMISSION. The commission shall submit the report described by Section 4 to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

Sec. 6. REIMBURSEMENT. A member of the commission is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

Sec. 7. ASSISTANCE. The Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin shall assist the commission in performing the commission's duties.

Sec. 8. OTHER LAW. The commission is not subject to Chapter 2110, Government Code.

SECTION __. (a) The purpose of this section is to establish the rotating basis for appointments by law schools as required by Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act.

(b) The president of the Texas Center for Actual Innocence at The University of Texas School of Law shall make the first appointment under Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act. After the expiration of the appointee's two-year term, the director of the innocence project at the University of Houston Law Center shall make the second appointment under Section 2, Article

43.27, Code of Criminal Procedure, as added by this Act. After the expiration of the second appointment, the director of the innocence project at Texas Tech University School of Law shall make the third appointment.

SECTION __. The appointments to the Texas Innocence Commission as required by Article 43.27, Code of Criminal Procedure, as added by this Act, shall be made not later than the 60th day after the effective date of this Act.

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

The amendment to **CSHB 13** was read.

Senator Ellis withdrew Floor Amendment No. 9.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 13** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter B, Chapter 521, Transportation Code, is amended by adding Section 521.032 to read as follows:

Sec. 521.032. ENHANCED DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) The department may issue an enhanced driver's license or personal identification certificate for the purposes of crossing the border between this state and Mexico to an applicant who provides the department with proof of United States citizenship, identity, and state residency. If the department issues an enhanced driver's license or personal identification certificate, the department shall continue to issue a standard driver's license and personal identification certificate and offer each applicant the option of receiving the standard or enhanced driver's license or personal identification certificate.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or personal identification certificate. An applicant for an enhanced driver's license or personal identification certificate must submit a biometric identifier as designated by the department, which, notwithstanding any other law, may be used only to verify the identity of the applicant for purposes relating to implementation of the border crossing initiative established by this section. An applicant must sign a declaration acknowledging the applicant's understanding of the one-to-many biometric match.

(c) The enhanced driver's license or personal identification certificate must include reasonable security measures to protect the privacy of the license or certificate holders, including reasonable safeguards to protect against the unauthorized disclosure of information about the holders. If the enhanced driver's license or personal identification certificate includes a radio frequency identification chip or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized information access.

(d) The requirements of this section are in addition to any other requirements imposed on applicants for a driver's license or personal identification certificate. The department shall adopt rules necessary to implement this section. The department shall periodically review technological innovations related to the security of driver's

licenses and personal identification certificates and amend the rules as appropriate, consistent with this section, to protect the privacy of driver's license and personal identification certificate holders.

(e) The department may set a fee for issuance of an enhanced driver's license or personal identification certificate in a reasonable amount necessary to implement and administer this section.

(f) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between this state and Mexico. The department may enter into an agreement with Mexico, to the extent permitted by federal law, to implement a border crossing initiative authorized by this section. The department shall implement a statewide education campaign to educate residents of this state about the border crossing initiative. The campaign must include information on:

(1) the forms of travel for which the existing and enhanced driver's license and personal identification certificate can be used; and

(2) relevant dates for implementation of laws that affect identification requirements at the border with Mexico.

(g) A person may not sell or otherwise disclose biometric information accessed from an enhanced driver's license or any information from an enhanced driver's license radio frequency identification chip or similar technology to another person or an affiliate of the person. This subsection does not apply to a financial institution described by Section 521.126(e).

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSHB 13** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 101.055, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.055. CERTAIN GOVERNMENTAL FUNCTIONS. This chapter does not apply to a claim arising:

(1) in connection with the assessment or collection of taxes by a governmental unit;

(2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is not taken with conscious indifference or reckless disregard for the safety of others; ~~[or]~~

(3) from the failure to provide or the method of providing police or fire protection; or

(4) from the action of a peace officer, if:

- (A) the peace officer is a:
(i) sheriff or sheriff's deputy; or
(ii) municipal police officer;
(iii) constables or deputy constables;

(B) the officer is engaged in the pursuit of a motor vehicle and the action is not taken with conscious indifference or reckless disregard for the safety of others; and

(C) the action occurs while the peace officer is operating a vehicle appropriately marked as an official police vehicle.

SECTION ____. Section 101.055, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action commenced on or after the effective date of this Act. A cause of action commenced before the effective date of this Act is governed by the law that existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment to **CSHB 13** was read.

Senator Watson offered the following amendment to Floor Amendment No. 11:

Floor Amendment No. 12

Amend Floor Amendment No. 11 to **CSHB 13** by striking Amendment No. 11 and substituting the following appropriately numbered SECTION:

SECTION ____. Section 101.055, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.055. CERTAIN GOVERNMENTAL FUNCTIONS. This chapter does not apply to a claim arising:

(1) in connection with the assessment or collection of taxes by a governmental unit;

(2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is not taken with conscious indifference or reckless disregard for the safety of others; ~~[or]~~

(3) from the failure to provide or the method of providing police or fire protection; or

(4) from the action of a peace officer, if:

- (A) the peace officer is a:
(i) sheriff or sheriff's deputy; or
(ii) municipal police officer;

(B) the officer is engaged in the pursuit of a motor vehicle and the action:

(i) is in compliance with the laws and ordinances applicable to the peace officer regarding the pursuit of a motor vehicle; or

(ii) in the absence of such law or ordinance, is not taken with conscious indifference or reckless disregard for the safety of others; and

(C) the action occurs while the peace officer is operating a vehicle appropriately marked as an official police vehicle.

The amendment to Floor Amendment No. 11 to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 12.

Question recurring on the adoption of Floor Amendment No. 11 to **CSHB 13**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 as amended except as follows:

Nays: Lucio, Shapleigh, Uresti.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 13

Amend **CSHB 13** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 279 to read as follows:

CHAPTER 279. MONEY TRANSMISSION FEE SUBCHAPTER A. GENERAL PROVISIONS

Sec. 279.001. DEFINITIONS. In this chapter:

(1) "Money" or "monetary value" has the meaning assigned by Section 151.301.

(2) "Money transmission" means receiving money or monetary value to transmit the money or monetary value by wire, computer modem, facsimile, or other electronic means or through the use of a financial institution, a financial intermediary, the federal reserve system, or another funds transfer network.

(3) "Money transmission business" means a person engaging in money transmission as a service or for profit.

[Sections 279.002-279.050 reserved for expansion]

SUBCHAPTER B. FEE ON CERTAIN MONEY TRANSMISSIONS

Sec. 279.051. FEE ON TRANSMISSIONS. (a) A money transmission business shall charge a fee on a money transmission of \$5,000 or less. The amount of the fee is five percent of the total amount sent by the money transmission, not to exceed \$100.

(b) The money transmission business shall:

(1) collect the fee from the person directing or requesting the business to make the transmission; and

(2) remit the fee to the comptroller at the times and in the manner prescribed by the comptroller.

(c) The comptroller shall deposit the revenue received under this section to the credit of the border security account. The border security account is an account in the general revenue fund. Money in the account may be appropriated only to the governor's office for programs and initiatives to secure this state's international border.

Sec. 279.052. REFUND OF FEE. (a) A person is entitled to apply to the comptroller for a refund of a fee charged under Section 279.051.

(b) The application for the refund must:

(1) be made in the manner provided for a claim for refund under Chapter 111, Tax Code, and on the form prescribed by the comptroller;

(2) have attached a fee receipt issued by the money transmission business showing full payment by the applicant of the fee for which the refund is sought;

(3) be filed not later than the 90th day after the date the fee for which the refund is sought is paid;

(4) include the documentation required by Subsection (c) or a copy of a letter of qualification and the statement described by Section 279.053; and

(5) contain a statement signed by the applicant that the applicant either is a United States citizen or is not a United States citizen but is lawfully present in the United States.

(c) Except as provided by Section 279.053, a person must submit at least two of the following documents with an application for a refund under this section:

(1) a certified copy of the person's birth certificate indicating the person was born in this state;

(2) a certified copy of a government document issued by this state to the person;

(3) a copy of a current driver's license or personal identification card issued to the person by the Department of Public Safety; or

(4) a copy of the person's social security card.

Sec. 279.053. LETTER OF QUALIFICATION. On receipt of an application for an initial refund under Section 279.052, the comptroller shall determine whether the applicant is eligible for and has satisfied all requirements for receipt of the refund. If the comptroller makes that determination, the comptroller shall, before paying the refund, promptly issue to the applicant a letter of qualification stating that the person has fully satisfied all requirements for receipt of a refund under this section. For any subsequent application for a refund filed under Section 279.052, the applicant, in lieu of submitting the documentation required by Section 279.052(c), may submit to the comptroller a copy of the letter of qualification and a statement that information contained in the documentation the applicant submitted under Section 279.052(c) for receipt of an initial refund has not changed in any material respect.

Sec. 279.054. RULES. The comptroller shall adopt any necessary rules for the imposition, administration, payment, collection, enforcement, and refund of the fee imposed by Section 279.051.

SECTION ____. The fees imposed under Subchapter B, Chapter 279, Finance Code, as added by this Act, apply only to money transmissions that occur on or after October 1, 2007.

SECTION ____. Not later than October 1, 2007, the comptroller shall adopt rules as necessary to implement Chapter 279, Finance Code, as added by this Act.

The amendment to **CSHB 13** was read.

POINT OF ORDER

Senator West raised a point of order that Floor Amendment No. 13 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator West withdrew the point of order.

Question — Shall Floor Amendment No. 13 to **CSHB 13** be adopted?

Senator Patrick withdrew Floor Amendment No. 13.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 13** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION ____ . Section 201.613, Transportation Code, is amended to read as follows:

Sec. 201.613. ONE-STOP BORDER INSPECTION FACILITIES [STATIONS]. (a) The department shall erect and maintain border [choose a location for an] inspection facilities [station] along a major highway at or near a border crossing from Mexico in the Pharr [Brownsville], [in] Laredo, and [in] El Paso districts for the inspection of motor vehicles for compliance with federal and state commercial motor vehicle regulations [so that all federal, state, and municipal agencies that regulate the passage of persons or vehicles across the border at that border crossing may be located in one place].

(b) If a facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality may choose the location of the facility within the municipality or the municipality's extraterritorial jurisdiction. The municipality shall choose a location before the later of the 180th day after:

- (1) the date the department makes a request for a location; or
- (2) the effective date of the Act enacting this provision.

(c) One or more inspection facilities may be constructed in a municipality described by this subsection.

(d) In determining the location for a border inspection facility under Subsection (b), the municipality shall:

(1) obtain and pay for an independent study completed by a university that conducts transportation studies or any other entity that conducts transportation studies to identify commercial truck traffic patterns for the location at which the facility is to be located to ensure that the location has adequate capacity to conduct a sufficient number of meaningful vehicle safety inspections in compliance with 49 U.S.C. Section 13902;

(2) choose a location that does not impair the receipt of federal or state funds for implementation of this section;

(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.

(e) To the extent the department considers appropriate to expedite commerce, the department shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in:

- (1) any new commercial motor vehicle inspection facility constructed; and
- (2) any existing facility to which this section applies.

(f) Implementation of systems under Subsection (e) must be based on the Texas ITS/CVO business plan prepared by the department, the Department of Public Safety, and the comptroller. The department shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(g) In implementing systems under Subsection (e) in the construction of a facility, the department to the greatest extent possible shall:

(1) enhance efficiency and reduce complexity for motor carriers by providing:

(A) a single point of contact between carriers and state and federal officials regulating the carriers; and

(B) a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:

(A) facilitate the flow of commerce;

(B) assist federal interdiction efforts;

(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section.

~~[The department shall establish and maintain an inspection station at the locations chosen in Subsection (a) only if the federal agencies involved in the regulation of the passage of persons or vehicles at that border crossing agree to the design of the facility at each location and agree to use the facility at each location if built.~~

~~[(c) The department may enter into agreements with federal, state, and municipal agencies to accomplish the purpose of this section. An agreement may involve the lease of office space at the inspection station by the department to the agency.]~~

SECTION ____ . The Texas Department of Transportation shall spend the money appropriated during the 76th Legislature for Section 201.613, Transportation Code, as added by Chapter 1527, Acts of the 76th Legislature, Regular Session, 1999, or money received from the federal government to establish the border inspection facilities under Section 201.613, Transportation Code, as amended by this Act.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 14.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 13** (committee printing) on second reading by adding a new appropriately numbered section to read as follows and renumbering the subsequent SECTIONS accordingly:

SECTION __. Chapter 552, Government Code, is amended by adding Section 552.0038 to read as follows:

Sec. 552.0038. CERTAIN NON-GOVERNMENTAL ENTITIES SUBJECT TO LAW. A non-governmental entity that exists for the purpose of representing members of the organization who are licensed under Chapter 1701, Occupations Code, and that accepts a grant or appropriated money from a state agency is subject to this chapter in the same manner as a governmental body.

The amendment to **CSHB 13** was read.

Senator Watson withdrew Floor Amendment No. 15.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSHB 13** (Senate committee printing) by inserting the following sections and renumbering accordingly.

SECTION __. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.27 to read as follows:

Art. 43.27. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. The Texas Innocence Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of nine members. The governor shall appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. The lieutenant governor shall appoint one member, who may be a member of the legislature. The speaker of the house of representatives shall appoint one member, who may be a member of the legislature. The presiding judge of the court of criminal appeals shall appoint one member, who must be a member of the judiciary. The presiding officer of the Texas Forensic Science Commission shall appoint one member, who must work in the forensic science field. The Texas District and County Attorneys Association shall appoint one member, who must be a prosecuting attorney. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer. The president of the Texas Center for Actual Innocence at The University of Texas School of Law, the director of the innocence project at the University of Houston Law Center, or the director of the innocence project at the Texas Tech University School of Law, on a rotating basis, shall appoint one member, who must be an attorney with experience in filing successful appellate claims based on actual innocence.

(b) Each member serves a two-year term.

(c) The governor shall designate a member to serve as presiding officer.

Sec. 3. DUTIES. (a) The commission shall investigate thoroughly all postconviction exonerations, including convictions vacated based on a plea to time served, to:

(1) ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue;

(2) identify errors and defects in the criminal justice process in this state generally;

(3) develop solutions and methods to correct the identified errors and defects; and

(4) identify procedures and programs to prevent future wrongful convictions.

(b) The commission may enter into contracts for research services as considered necessary to complete the investigation of a particular case, including forensic testing and autopsies.

Sec. 4. REPORT. (a) The commission shall compile a detailed annual report of its findings and recommendations, including any proposed legislation to implement procedures and programs to prevent future wrongful convictions or executions.

(b) The report shall be made available to the public on request.

(c) The findings and recommendations contained in the report may not be used as binding evidence in a subsequent civil or criminal proceeding.

Sec. 5. SUBMISSION. The commission shall submit the report described by Section 4 to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

Sec. 6. REIMBURSEMENT. A member of the commission is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

Sec. 7. ASSISTANCE. The Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin shall assist the commission in performing the commission's duties.

Sec. 8. OTHER LAW. The commission is not subject to Chapter 2110, Government Code.

SECTION __. (a) The purpose of this section is to establish the rotating basis for appointments by law schools as required by Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act.

(b) The president of the Texas Center for Actual Innocence at The University of Texas School of Law shall make the first appointment under Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act. After the expiration of the appointee's two-year term, the director of the innocence project at the University of Houston Law Center shall make the second appointment under Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act. After the expiration of the second appointment, the director of the innocence project at Texas Tech University School of Law shall make the third appointment.

SECTION __. The appointments to the Texas Innocence Commission as required by Article 43.27, Code of Criminal Procedure, as added by this Act, shall be made not later than the 60th day after the effective date of this Act.

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

The amendment to **CSHB 13** was read and failed of adoption by the following vote: Yeas 15, Nays 15.

Yeas: Carona, Deuell, Duncan, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Averitt, Brimer, Eltife, Fraser, Harris, Hegar, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Williams.

Absent: Estes.

Senator Carona moved to postpone further consideration of the bill to a time certain of 6:00 p.m. today.

The motion prevailed.

Question — Shall **CSHB 13** as amended be passed to third reading?

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 22, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 264, Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1471 (136 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 463 (non-record vote)

House Conferees: Flores - Chair/Bailey/Geren/Hamilton/Thompson

HB 1009 (non-record vote)

House Conferees: Escobar - Chair/Goolsby/Martinez, "Mando"/Oliveira/Rose

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 344 (non-record vote)

House Conferees: Davis, John - Chair/Eissler/Hopson/Parker/Rose

SB 792 (non-record vote)

House Conferees: Smith, Wayne - Chair/Harless/Kolkhorst/Phillips/Pickett

SB 1031 (non-record vote)

House Conferees: Eissler - Chair/Branch/Hochberg/Patrick/Zedler

SB 1520 (non-record vote)

House Conferees: Paxton - Chair/Anchia/Corte, Frank/McCall/Solomons

SB 1993 (non-record vote)

House Conferees: Flynn - Chair/Berman/Brown, Betty/Hopson/Hughes

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

SB 1886

The House grants the request of the Senate and appoints the following conferees with instructions:

House Conferees: Keffer - Chair/ Brown, Fred/ Martinez-Fischer/ Otto/ Ritter

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

On motion of Senator Brimer and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)

On motion of Senator Brimer and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar by 4:00 p.m., was suspended and the time was extended to 8:00 p.m. today.

SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)

Senator Brimer moved to suspend Senate Rule 5.14(a) to allow Members to place seven bills and resolutions on the Intent Calendar today.

The motion prevailed without objection.

COMMITTEE SUBSTITUTE
HOUSE BILL 2918 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2918** at this time on its second reading:

CSHB 2918, Relating to state information technology contracting and procurement practices.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2918** (Senate committee printing) as follows:

(1) In SECTION 9 of the bill, in proposed Subsection (c), Section 2157.006, Government Code (page 3, line 21), strike "Subsection (a)" and substitute "Subsection (a)(2)".

(2) In SECTION 12 of the bill, in proposed Subsection (i), Section 2157.068, Government Code (page 3, line 41), between "purchasing method" and ", a state agency", insert "other than a purchasing method designated by the commission under Section 2157.006(a)(2)".

The amendment to **CSHB 2918** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2918 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2918 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2918** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1899 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1899** at this time on its second reading:

CSHB 1899, Relating to the sale of certain real property at an ad valorem tax sale and to the right of redemption in connection with that real property.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1899 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1899** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1889 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1889** at this time on its second reading:

HB 1889, Relating to allowing certain active judicial officers and bailiffs to carry weapons.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1889** (Senate committee printing) in Section 1 on page 1, line 52 by inserting "municipal attorney," before "or".

The amendment to **HB 1889** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1889 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 1889 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1889** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3995 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3995** at this time on its second reading:

HB 3995, Relating to the name, administration, powers, and duties of the Collingsworth County Underground Water Conservation District.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3995 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3995** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3325 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3325** at this time on its second reading:

HB 3325, Relating to the extent of extraterritorial jurisdiction of certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3325 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3325** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 317 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 317** at this time on its second reading:

HB 317, Relating to the student enrollment required for the issuance of certain revenue bonds for facilities at Texas A&M University–Central Texas.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 317** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0661 to read as follows:

Sec. 61.0661. STUDY REGARDING ISSUANCE OF REVENUE BONDS FOR CERTAIN CAMPUSES AND CENTERS. (a) The board shall conduct a study to determine:

(1) the merits of permitting public institutions of higher education to issue revenue bonds or other obligations for the purpose of funding capital projects at branch campuses, extension centers, system centers, and multi-institutional teaching centers, regardless of the level of student enrollment at those campuses and centers; and

(2) any student enrollment levels at those campuses and centers that may be appropriate to serve as a statutory prerequisite for issuing revenue bonds or other obligations to fund capital projects at those campuses and centers.

(b) Not later than January 1, 2009, the board shall report to the legislature concerning the results of the study conducted under Subsection (a). The report must include the board's recommendations regarding the issuance of revenue bonds or other obligations for campuses and centers described by Subsection (a).

(c) The board shall use existing resources to perform duties imposed under this section.

(d) This section expires June 1, 2009.

SECTION 2. Sections 55.1751(d) and (e) and 55.1755(d), Education Code, are repealed.

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

The amendment to **HB 317** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 317 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 317 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 317** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE JOINT RESOLUTION 40 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **HJR 40** at this time on its second reading:

HJR 40, Proposing a constitutional amendment authorizing the legislature to provide that the maximum appraised value of a residence homestead for ad valorem taxation is limited to the lesser of the most recent market value of the residence homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the residence homestead for the preceding tax year.

The motion prevailed.

Senator Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Shapiro.

Absent: Ogden.

HOUSE JOINT RESOLUTION 40 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 40** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent: Ogden.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 199 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 199** at this time on its second reading:

HB 199, Relating to a residential infant care program for mothers confined in Texas Department of Criminal Justice facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 199 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 199** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1470 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1470** at this time on its second reading:

CSHB 1470, Relating to the Texas Economic Development Act, including the continuation of that Act and tax credits claimed under that Act, and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1470** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES appropriately:

ARTICLE ____ . AWARD OF STATE CONTRACTS; HEALTH BENEFITS
COVERAGE REQUIRED

SECTION ____ .01. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.0771 to read as follows:

Sec. 2155.0771. HEALTH BENEFITS COVERAGE REQUIRED. (a) A vendor may not be awarded a state contract for goods or services that has a value greater than \$1 million, including a contract for which purchasing authority is delegated to a state

agency, unless the vendor provides health benefits coverage that is at least equivalent to basic coverage provided under the state employees group benefit program provided under Chapter 1551, Insurance Code, to each full-time employee and the employee's dependents.

(b) The vendor must pay 100 percent of the health insurance premiums for each full-time employee who participates in the insurance program and at least 50 percent of the health insurance premiums for each dependent of a full-time employee whom the employee elects to cover under the insurance program.

SECTION ____ .02. Section 2155.0771, Government Code, as added by this Act, applies only to a contract for the procurement of goods and services for which the solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2007.

The amendment to **CSHB 1470** was read.

Senator West withdrew Floor Amendment No. 1.

CSHB 1470 was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1470 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1470** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1886 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1886** at this time on its second reading:

CSHB 1886, Relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.

The bill was read second time.

Senator West offered the following amendment to the bill:

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.

The amendment to **CSHB 1886** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1886** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 3(5), Cultural Education Facilities Finance Corporation Act (Article 1528m, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Cultural facility" means any capital expenditure by a user. The term includes:

(A) real property or an interest in real property, including buildings and improvements, or equipment, furnishings, or other personal property that:

(i) is found by the board to be necessary or convenient to finance, refinance, acquire, construct, enlarge, remodel, renovate, improve, furnish, or equip for cultural education or community benefit;

(ii) is made available for use by the general public, the user, or community groups; and

(iii) is used for a purpose described by Section 2(a)(1) of this Act; ~~and~~

(B) a facility in which a majority of the use involves any of the following types of entities engaging in any activity in which the entity is permitted to engage:

(i) a nonprofit corporation exempt from the state franchise tax under Section 171.063, Tax Code;

(ii) an organization described in Section 11.18, Tax Code; or

(iii) an organization described in Section 501(c)(3), Internal Revenue Code of 1986; and

(C) facilities incidental, subordinate, or related to or appropriate in connection with property described by Paragraph (A) or (B) of this subdivision, located within the state, regardless of the date of construction or acquisition.

SECTION _____. Section 4(b), Cultural Education Facilities Finance Corporation Act (Article 1528m, Vernon's Texas Civil Statutes), is amended and Section 4(e) is added to read as follows:

(b) The corporation shall be created and organized in the same manner as a health facilities development corporation under Chapter 221, Health and Safety Code, and has the same powers, authority, and rights:

(1) with respect to cultural facilities and health facilities that a health facilities development corporation has with respect to health facilities under Chapter 221, Health and Safety Code; and

(2) with respect to educational facilities, housing facilities, and other facilities incidental, subordinate, or related to those facilities that a nonprofit corporation created under Section 53.35(b), Education Code, or an authority created under Section 53.11, Education Code, has under Chapter 53, Education Code.

(e) with respect to facilities financed under this Act and built by a user and to be owned by a political subdivision, the design-build process shall not be subject to Chapter 271, Subchapter J, Local Government Code, unless otherwise required by law.

The amendment to **CSHB 1886** was read.

Senator Shapiro withdrew Floor Amendment No. 2.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 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".

The amendment to **CSHB 1886** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1886 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1886 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1886** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2034 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSHB 2034** at this time on its second reading:

CSHB 2034, Relating to the regulation of sex offender treatment providers.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2034** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 841.002, Health and Safety Code, is amended by amending Subdivisions (1) and (5) and adding Subdivision (3-a) to read as follows:

(1) "Attorney representing the state" means an attorney employed by the civil division of the special [prison] prosecution unit to initiate and pursue a civil commitment proceeding under this chapter.

(3-a) "Civil commitment proceeding" means a trial or hearing conducted under Subchapter D, F, or G.

(5) "Predatory act" means an act [~~that is committed for the purpose of victimization and that is~~] directed toward individuals, including family members,

~~[(A) a stranger;~~

~~[(B) a person of casual acquaintance with whom no substantial relationship exists; or~~

~~[(C) a person with whom a relationship has been established or promoted]~~ for the primary purpose of victimization.

SECTION ____. Section 841.004, Health and Safety Code, is amended to read as follows:

Sec. 841.004. SPECIAL [PRISON] PROSECUTION UNIT. The civil [A special] division of the special [prison] prosecution unit, separate from that part of the unit responsible for prosecuting criminal cases, is responsible for initiating and pursuing a civil commitment proceeding under this chapter.

SECTION ____. (a) Section 841.061, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) A judge assigned to preside over a trial under this subchapter is not subject to an objection under Section 74.053, Government Code, other than an objection made under Section 74.053(d), Government Code.

(b) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2007.

SECTION ____. Section 841.085, Health and Safety Code, is amended to read as follows:

Sec. 841.085. CRIMINAL PENALTY; PROSECUTION OF OFFENSE. (a) A person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082.

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

(c) At the request of the local prosecuting attorney, an attorney employed by the civil division of the special prosecution unit described by Section 841.004 may assist in the trial of an offense under this section.

SECTION ____ . Section 841.147, Health and Safety Code, is amended to read as follows:

Sec. 841.147. IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the [Texas] Department of State Health Services [~~Mental Health and Mental Retardation~~], the Department of Aging and Disability Services [~~Texas Department of Health~~], or the council;

(2) a member of the multidisciplinary team established under Section 841.022;

(3) an employee of the civil division of the special [~~prison~~] prosecution unit charged with initiating and pursuing civil commitment proceedings under this chapter; and

(4) a person providing, or contracting, appointed, or volunteering to perform, a tracking service or another service under this chapter.

SECTION ____ . Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.315 to read as follows:

Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section 841.085, Health and Safety Code, may be prosecuted in the county in which any element of the offense occurs or in Montgomery County.

SECTION ____ . (a) Except as provided by Subsection (b) of this section, the change in law made by this Act applies only to an individual who on or after September 1, 2007, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Department of State Health Services or the Department of Aging and Disability Services for an offense committed before, on, or after the effective date of this Act.

(b) The change in law made by this Act in adding Subsection (g), Section 841.061, Health and Safety Code, applies to a petition alleging predator status that is filed on or after the effective date of this Act.

The amendment to **CSHB 2034** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2034 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2034 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2034** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2118 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSHB 2118** at this time on its second reading:

CSHB 2118, Relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2118** (Senate committee printing) as follows:

(1) In SECTION 10 of the bill, strike added Subsection (c), Section 766.002, Health and Safety Code (page 4, lines 64 through 69), and substitute the following:

Sec. 766.0021. SMOKE DETECTOR FOR HEARING-IMPAIRED PERSONS.

(a) A purchaser under a written contract for the resale of an existing one-family or two-family dwelling may require the seller to install smoke detectors for hearing-impaired persons if:

(1) the purchaser or a member of the purchaser's family who will reside in the dwelling is a hearing-impaired person;

(2) the purchaser provides written evidence of the hearing impairment signed by a licensed physician; and

(3) not later than the 10th day after the effective date of the contract, the purchaser requests in writing that the seller install smoke detectors for hearing-impaired persons and specifies the locations in the dwelling where the smoke detectors are to be installed.

(b) If the seller is required to install smoke detectors for hearing-impaired persons under Subsection (a), the seller and purchaser may agree:

(1) which party will bear the cost of installing the smoke detectors; and

(2) which brand of smoke detectors to install.

(c) The seller must install the smoke detectors not later than the closing date of the sale of the dwelling.

(d) A purchaser may terminate the contract to purchase the dwelling if the seller fails to install smoke detectors for hearing-impaired persons as required by this section.

(2) Strike SECTION 11 of the bill (page 5, line 40, through page 7, line 43) and substitute the following:

SECTION 11. Subsection (b), Section 5.008, Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT _____

(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller __ is __ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- | | | |
|--|---|---|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| <input type="checkbox"/> Security System | <input type="checkbox"/> Fire Detection Equipment | <input type="checkbox"/> Intercom System |
| | <input type="checkbox"/> <u>Smoke Detector</u> | |
| | <input type="checkbox"/> <u>Smoke Detector -</u> | |
| | <input type="checkbox"/> <u>Hearing Impaired</u> | |
| | <input type="checkbox"/> <u>Carbon Monoxide</u> | |
| | <input type="checkbox"/> <u>Alarm</u> | |
| | <input type="checkbox"/> <u>Emergency Escape</u> | |
| | <input type="checkbox"/> <u>Ladder(s)</u> | |
| <input type="checkbox"/> TV Antenna | <input type="checkbox"/> Cable TV | <input type="checkbox"/> Satellite Dish |
| <input type="checkbox"/> Ceiling Fan(s) | <input type="checkbox"/> Wiring | <input type="checkbox"/> Exhaust Fan(s) |
| <input type="checkbox"/> Central A/C | <input type="checkbox"/> Attic Fan(s) | <input type="checkbox"/> Wall/Window Air Conditioning |
| <input type="checkbox"/> Plumbing System | <input type="checkbox"/> Central Heating | <input type="checkbox"/> Public Sewer System |
| <input type="checkbox"/> Patio/Decking | <input type="checkbox"/> Septic System | <input type="checkbox"/> Fences |
| <input type="checkbox"/> Pool | <input type="checkbox"/> Outdoor Grill | <input type="checkbox"/> Spa |
| <input type="checkbox"/> Pool Equipment | <input type="checkbox"/> Sauna | <input type="checkbox"/> Hot Tub |
| | <input type="checkbox"/> Pool Heater | <input type="checkbox"/> Automatic Lawn |

<input type="checkbox"/> Fireplace(s) & Chimney (Woodburning)	<input type="checkbox"/> Sprinkler System
<input type="checkbox"/> Gas Lines (Nat./LP)	<input type="checkbox"/> Fireplace(s) & Chimney (Mock)
Garage: <input type="checkbox"/> Attached	<input type="checkbox"/> Gas Fixtures
<input type="checkbox"/> Not Attached	<input type="checkbox"/> Carport
Garage Door Opener(s): <input type="checkbox"/> Electronic	<input type="checkbox"/> Control(s)
Water Heater: <input type="checkbox"/> Gas	<input type="checkbox"/> Electric
Water Supply: <input type="checkbox"/> City	<input type="checkbox"/> Co-op
<input type="checkbox"/> Well <input type="checkbox"/> MUD	
Roof Type: _____	Age: _____ (approx)

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? Yes No Unknown.
 If yes, then describe. (Attach additional sheets if necessary):

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code? Yes No Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary):

3. Are you (Seller) aware of any known defect/malfunctions in any of the following? Write Yes (Y) if you are aware, write No (N) if you are not aware.

<input type="checkbox"/> Interior Walls	<input type="checkbox"/> Ceilings	<input type="checkbox"/> Floors
<input type="checkbox"/> Exterior Walls	<input type="checkbox"/> Doors	<input type="checkbox"/> Windows
<input type="checkbox"/> Roof	<input type="checkbox"/> Foundation/ Slab(s)	<input type="checkbox"/> Basement
<input type="checkbox"/> Walls/Fences	<input type="checkbox"/> Driveways	<input type="checkbox"/> Sidewalks
<input type="checkbox"/> Plumbing/Sewers/ Septics	<input type="checkbox"/> Electrical Systems	<input type="checkbox"/> Lighting Fixtures
<input type="checkbox"/> Other Structural Components (Describe): _____		

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

4 [3]. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

<input type="checkbox"/> Active Termites (includes wood-destroying insects)	<input type="checkbox"/> Previous Structural or Roof Repair
<input type="checkbox"/> Termite or Wood Rot Needing Repair	<input type="checkbox"/> Hazardous or Toxic Waste
<input type="checkbox"/> Previous Termite Damage	<input type="checkbox"/> Asbestos Components

- Previous Termite Treatment
- Previous Flooding
- Improper Drainage
- Water Penetration
- Located in 100-Year Floodplain
- Present Flood Insurance Coverage
- Landfill, Settling, Soil Movement, Fault Lines
- Urea formaldehyde Insulation
- Radon Gas
- Lead Based Paint
- Aluminum Wiring
- Previous Fires
- Unplatted Easements
- Subsurface Structure or Pits

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): _____

5 [4]. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair? Yes (if you are aware) No (if you are not aware). If yes, explain (attach additional sheets as necessary).

6 [5]. Are you (Seller) aware of any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
- Homeowners' Association or maintenance fees or assessments.
- Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
- Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
- Any lawsuits directly or indirectly affecting the Property.
- Any condition on the Property which materially affects the physical health or safety of an individual.

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): _____

Date Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766.

Date Signature of Purchaser

The amendment to **CSHB 2118** was read.

(Senator Watson in Chair)

Senator Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 2118** Section 10 (page 1, line 7) by striking proposed "resale of an existing" and substitute the following: "sale of a".

The amendment to Floor Amendment No. 1 to **CSHB 2118** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Duncan, Jackson, Williams.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 2118**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Nays: Duncan, Jackson, Williams.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2118 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2118 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2118** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 3143 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3143** at this time on its second reading:

HB 3143, Relating to electioneering near a polling place.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3143 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3143** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3972 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3972** at this time on its second reading:

HB 3972, Relating to a bailiff to serve the 115th District Court in Upshur County.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3972 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3972** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 85

The Presiding Officer laid before the Senate **SCR 85** by Senator Brimer for consideration at this time:

WHEREAS, **SB 924** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 80th Legislature of the State of Texas, That the governor be hereby requested to return Senate Bill No. 924 to the senate for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing Senate Bill No. 924 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

The resolution was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 22, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 120 (141 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 763 (non-record vote)

House Conferees: King, Phil - Chair/Hartnett/Macias/O'Day/Phillips

SB 993 (non-record vote)

House Conferees: McReynolds - Chair/Delisi/Howard, Donna/King, Susan/Villarreal

SB 1562 (non-record vote)

House Conferees: King, Phil - Chair/Harper-Brown/Hughes/Mallory Caraway/Parker

SB 1983 (non-record vote)

House Conferees: King, Phil - Chair/Darby/Hughes/Pierson/Taylor

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **HB 2** at this time on its second reading:

HB 2, Relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions.

The motion prevailed.

Senators Ellis and Shapleigh asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2** (Senate committee printing) by adding the following appropriately numbered new SECTION after existing SECTION 1 of the bill and renumbering the other existing SECTION of the bill accordingly:

SECTION _____. (a) On August 31, 2008, the comptroller of public accounts shall transfer into the property tax relief fund an amount of unappropriated general revenue available for certification equal to \$2 billion, except that:

(1) if the amount of unappropriated general revenue available for certification in the state treasury on August 31, 2008, is greater than \$2 billion, the comptroller shall transfer into the property tax relief fund on that date an amount of general revenue equal to the lesser of \$3 billion or the amount of unappropriated general revenue available for certification in the state treasury on that date; and

(2) if the amount of unappropriated general revenue available for certification in the state treasury on August 31, 2008, is less than \$2 billion, the comptroller shall transfer into the property tax relief fund on that date all unappropriated general revenue available for certification in the state treasury on that date.

(b) Notwithstanding Section 1 of this Act, money transferred under this section is not appropriated by this Act and may not be appropriated for expenditure during the state fiscal biennium ending August 31, 2009.

The amendment to **HB 2** was read.

(President in Chair)

Senator Shapleigh moved to table Floor Amendment No. 1.

The motion to table was lost by the following vote: Yeas 11, Nays 20.

Yeas: Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 2**, the amendment was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Ellis, Gallegos, Hinojosa, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2** (Senate committee printing) by adding the following appropriately numbered new SECTION after existing SECTION 1 of the bill and renumbering the other existing SECTION of the bill accordingly:

SECTION _____. In addition to the amounts appropriated by Section 1 of this Act, if on August 1, 2008, the amount of franchise tax revenue received during the state fiscal year ending August 31, 2008, as of August 1 exceeds \$5,884,262,000, then an amount equal to the amount by which franchise tax revenue received as of August 1 exceeds \$5,884,262,000, but not to exceed the lesser of the amount of

unappropriated general revenue available for certification on that date or \$1.25 billion, is appropriated out of the general revenue fund to the Texas Education Agency for the state fiscal year ending August 31, 2008, under the Foundation School Program for the purpose of funding school district property tax rate reductions for the 2008 tax year in accordance with Section 42.2516, Education Code. Any unexpended balance of that amount is appropriated to the Texas Education Agency for that purpose for the state fiscal year ending August 31, 2009.

The amendment to **HB 2** was read.

Senator Williams withdrew Floor Amendment No. 2.

(Senator Brimer in Chair)

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2 as amended was passed to third reading by the following vote: Yeas 26, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Ellis, Shapleigh, Uresti, Watson, Zaffirini.

HOUSE BILL 2 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Ellis, Shapleigh, Uresti, Watson, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 3275 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3275** at this time on its second reading:

CSHB 3275, Relating to a study regarding the distribution of funds for highway projects.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3275** by adding an appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION __. The Texas Department of Transportation and The Office of the Governor, Economic Development and Tourism Division will conduct a study involving their respective departments, the tourism industry, general aviation airports, and pilots in a review of the Texas Airport Directory and how it can be improved to contribute to tourism and economic development in Texas. The study shall consider the potential for including paid advertising and reducing or eliminating the directory fee.

The amendment to **CSHB 3275** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3275 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3275 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3275** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 109 ON SECOND READING

Senator Averitt moved to suspend Senate Rule 5.14 and the regular order of business to take up for consideration **HB 109** at this time on its second reading:

HB 109, Relating to eligibility for and information regarding the child health plan program.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nelson.

HOUSE BILL 109 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2365 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSHB 2365** at this time on its second reading:

CSHB 2365, Relating to financial accounting and reporting for this state and political subdivisions of this state.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Shapleigh, Wentworth.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nelson, Shapleigh, Wentworth.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2365 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2365** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Shapleigh, Wentworth.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 1111 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1111** at this time on its second reading:

HB 1111, Relating to prohibitions on and reporting concerning medical, psychiatric, and other research on children committed to the Texas Youth Commission.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1111** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 13) strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) In SECTION 1 of the bill, in amended Section 61.076, Human Resources Code (page 1, between lines 34 and 35), insert:

(d) Subsection (c) does not apply to a research program if one of the following courts determines it is in the best interest of a child for the child to participate in the research program:

(1) a district court in Travis County;

(2) a district court whose jurisdiction includes the county of the child's residence or placement; or

(3) a court with continuing jurisdiction over the child's case.

The amendment to **HB 1111** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1111 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1111 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1111** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2138 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2138** at this time on its second reading:

HB 2138, Relating to regulation of property tax lenders; providing a penalty.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend SECTION 1 of **HB 2138** by adding a new Section 351.164 to read as follows:

Sec. 351.164. REPORTING REQUIREMENT. (a) Each year, a license holder shall file with the commissioner a report that contains relevant information concerning its transactions conducted under this chapter.

(b) A report under this section must be;

(1) under oath; and

(2) in the form prescribed by the commissioner.

(c) A report under this section is confidential.

(d) Annually the commissioner shall prepare and publish a consolidated analysis and recapitulation of reports filed under this section.

The amendment to **HB 2138** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2138**, in SECTION 4 of the bill, in amended Subsection (d), Section 32.065, Tax Code (committee printing page 5, line 58), by striking "Chapters 342, 343, and 346, Finance Code," and substituting "Chapters 342 and 346, Finance Code, and the provisions of Chapter 343, Finance Code, other than Sections 343.203 and 343.205,".

The amendment to **HB 2138** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2138 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2138 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2138** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 13 ON SECOND READING**

The Presiding Officer laid before the Senate **CSHB 13** by Senator Carona on its second reading. The bill had been read second time, amended, and further consideration postponed to a time certain of 6:00 p.m. today:

CSHB 13, Relating to homeland security issues, including border security issues and law enforcement.

Question — Shall **CSHB 13** as amended be passed to third reading?

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 17

Amend **CSHB 13** (Senate committee printing) in SECTION 4, on page 5, between lines 6 and 7, by adding a new subsection (e) to Section 421.002, Government Code to read as follows:

(e) Common carrier pipelines are critical infrastructure for the State, and are authorized to exercise the powers under Section 111.019 Nat. Resources Code regardless of the form of business organization.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 17.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 18

Amend **CSHB 13** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 11, Chapter 197, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

Sec. 11. Each commissioner shall receive for performing duties as a commissioner ~~[his services]~~ the sum of \$200 ~~[Fifty Dollars (\$50)]~~ per month, except the president who shall receive \$250 ~~[Seventy five Dollars (\$75)]~~ per month, plus actual traveling expenses. The board of commissioners shall fix the compensation of the secretary, general manager, attorneys, engineers, and all other employees, and said board shall fix and determine the term and time of employment of all officers and employees of the district; provided that all officers and employees of the district, except the commissioners themselves, shall hold their offices subject to the will of the Board of Port Commissioners.

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 18.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 19

Amend **CSHB 13** (Senate committee printing) by inserting the following appropriately number SECTION to the bill:

SECTION 1. Article 59.06(h), Code of Criminal Procedure, is amended to read as follows:

(h) As a specific exception to the requirement of Subdivisions (1)-(3) of Subsection (c) of this article that the funds described by those subdivisions be used only for the official purposes of the attorney representing the state or for law enforcement purposes, on agreement between the attorney representing the state or the head of a law enforcement agency and the governing body of a political subdivision, the attorney representing the state or the head of the law enforcement agency may [~~shall~~] comply with the request of the governing body to deposit not more than a total of 10 percent of the gross amount credited to the attorney's or agency's fund into the treasury of the political subdivision. The governing body of the political subdivision shall, by ordinance, order, or resolution, use funds received under this subsection for:

- (1) nonprofit programs for the prevention of drug abuse;
- (2) nonprofit chemical dependency treatment facilities licensed under Chapter 464, Health and Safety Code;
- (3) nonprofit drug and alcohol rehabilitation or prevention programs administered or staffed by professionals designated as qualified and credentialed by the Texas Commission on Alcohol and Drug Abuse; or
- (4) financial assistance as described by Subsection (o).

SECTION 2. Article 59.06, Code of Criminal Procedure, is amended by adding Subsections (r), (s), and (t) to read as follows:

(r) As a specific exception to the requirement of Subdivisions (1)-(3) of Subsection (c) that the funds described by those subdivisions be used only for the official purposes of the attorney representing the state or for law enforcement purposes, in any county that implements or operates a drug court program under Chapter 469, Health and Safety Code, the attorney representing the state shall deposit 10 percent of the gross amount credited to the attorney's fund into the county treasury. The commissioners court shall use the funds received under this subsection to implement or operate the drug court program in the county.

(s) The state auditor may conduct audits and investigations related to the seizure, forfeiture, receipt, and specific expenditure of all proceeds and property under this article in accordance with this article and Chapter 321, Government Code.

(t) The state auditor is entitled to access any book, account, voucher, confidential or nonconfidential report, or other record of information, including electronic data, maintained by a county auditor under this article, except that:

(1) if the release of the applicable information is restricted under federal law, the state auditor may access the information only with the approval of the appropriate federal administrative agency; and

(2) the state auditor may access only for purposes of performing an audit any copyrighted or restricted information obtained by the comptroller under subscription agreements and used in the preparation of the comptroller's economic estimates.

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

The amendment to **CSHB 13** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 19.

VOTE RECONSIDERED ON FLOOR AMENDMENT NO. 7

On motion of Senator Shapiro and by unanimous consent, the vote by which Floor Amendment No. 7 was adopted was reconsidered.

Question — Shall Floor Amendment No. 7 to **CSHB 13** be adopted?

Senator Jackson withdrew Floor Amendment No. 7.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 13 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 13 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 13** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE JOINT RESOLUTION 30 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 30** at this time on its second reading:

HJR 30, Proposing a constitutional amendment to allow the repurchase of real property acquired by a governmental entity through eminent domain.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE JOINT RESOLUTION 30 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 30** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 589 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 589** at this time on its second reading:

HB 589, Relating to the student enrollment required for Texas A&M University–Central Texas to operate as a general academic teaching institution.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 589** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (d), Section 87.841, Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, Texas A&M University–San Antonio may not operate as a general academic teaching institution until the Texas Higher Education Coordinating Board certifies that enrollment at the Texas A&M University–Kingsville System Center–San Antonio has reached an enrollment equivalent of 1,000 full-time students for one semester or one academic year. In computing the full-time student enrollment equivalent for an academic year under this subsection, the coordinating board shall include all semester credit hours completed during the fall and spring semesters and the summer session of the academic year[-

~~[(1) 1,000 full time students for one semester if the legislature authorizes revenue bonds to be issued to finance educational and related facilities for the institution, and the bonds are issued for that purpose; or~~

~~[(2) 2,500 full time students for one semester if the conditions specified by Subdivision (1) are not satisfied].~~

SECTION _____. Subsection (d), Section 105.501, Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, the University of North Texas at Dallas may operate as a general academic teaching institution with its own chief executive officer, administration, and faculty only after the Texas Higher Education Coordinating Board certifies that enrollment at the University of North Texas System Center at Dallas has reached an enrollment equivalent to 1,000 full-time students for one semester or one academic year. In computing the full-time student enrollment equivalent for an academic year under this subsection, the coordinating board shall include all semester credit hours completed during the fall and spring semesters and the summer session of the academic year. Until that enrollment level is reached, the board may operate a system center of the University of North Texas in the city of Dallas. ~~[Prior to reaching 2,500 full time equivalent students, the University of North Texas at Dallas may not receive general revenue in excess of the 2003 expended amount with the exception of funding provided through the General Academic Instruction and Operations Formula for semester credit hour increases and~~

~~the Tuition Revenue Bond debt service for bonds approved in the 78th Legislature. The institution will not be eligible to receive the small school supplement in the General Academic Instruction and Operations Formula until it reaches 2,500 full-time equivalent student enrollment.]~~

The amendment to **HB 589** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 589 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 589 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 589** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 4139 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4139** at this time on its second reading:

HB 4139, Relating to the creation of a county court at law in Van Zandt County.

The bill was read second time.

Senator Hinojosa offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 4139** (House grossment) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 6), strike "Sections 25.2361 and 25.2362" and substitute "Section 25.2361".

(2) In SECTION 1 of the bill, strike added Section 25.2362, Government Code (page 1, lines 9 through 14).

The amendment to **HB 4139** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4139** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. (a) Effective September 15, 2008, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.542 to read as follows:

Sec. 24.542. 397TH JUDICIAL DISTRICT (GRAYSON COUNTY). The 397th Judicial District is composed of Grayson County.

(b) The 397th Judicial District is created on September 15, 2008.

(c) Effective January 1, 2010, the heading to Section 24.106, Government Code, is amended to read as follows:

Sec. 24.106. 6TH JUDICIAL DISTRICT (~~FANNIN,~~ LAMAR~~;~~ AND RED RIVER COUNTIES).

(d) Effective January 1, 2010, Section 24.106(a), Government Code, is amended to read as follows:

(a) The 6th Judicial District is composed of ~~Fannin,~~ Lamar~~;~~ and Red River counties.

(e) Effective January 1, 2010, Section 24.482, Government Code, is amended to read as follows:

Sec. 24.482. 336TH JUDICIAL DISTRICT (FANNIN COUNTY ~~AND GRAYSON COUNTIES~~). ~~(a)~~ The 336th Judicial District is composed of Fannin County ~~[and Grayson counties].~~

(f) The local administrative district judge for the 6th Judicial District:

(1) shall transfer all cases from Fannin County that are pending in the 6th District Court on January 1, 2010, to the 336th District Court; and

(2) may transfer any case from Fannin County that is pending or filed in the 6th District Court on or after September 15, 2008, to the 336th District Court.

(g) When a case is transferred as provided by Subsection (f) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 6th District Court are returnable to the 336th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 6th District Court and all witnesses summoned to appear in the 6th District Court are required to appear before the 336th District Court as if originally required to appear before that court.

(h) The local administrative district judge for the 336th Judicial District:

(1) shall transfer all cases from Grayson County that are pending in the 336th District Court on January 1, 2010, to the 397th District Court; and

(2) may transfer any case from Grayson County that is pending or filed in the 336th District Court on or after September 15, 2008, to the 397th District Court.

(i) When a case is transferred as provided by Subsection (h) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 336th District Court are returnable to the 397th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 336th District Court and all witnesses summoned to appear in the 336th District Court are required to appear before the 397th District Court as if originally required to appear before that court.

SECTION 2. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.562 to read as follows:

Sec. 24.562. 418TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) The 418th Judicial District is composed of Montgomery County.

(b) The 418th District Court shall give preference to family law matters.

(b) The 418th Judicial District is created on the effective date of this section.

SECTION 3. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.567 to read as follows:

Sec. 24.567. 423RD JUDICIAL DISTRICT (BASTROP, BURLESON, LEE, AND WASHINGTON COUNTIES). The 423rd Judicial District is composed of Bastrop, Burleson, Lee, and Washington Counties.

(b) The 423rd Judicial District is created on the effective date of this section.

SECTION 4. (a) Effective January 1, 2009, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.573 to read as follows:

Sec. 24.573. 429TH JUDICIAL DISTRICT (COLLIN COUNTY). The 429th Judicial District is composed of Collin County.

(b) Effective January 1, 2009, the 429th Judicial District is created.

SECTION 5. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.579 to read as follows:

Sec. 24.579. 435TH JUDICIAL DISTRICT (MONTGOMERY COUNTY).

(a) The 435th Judicial District is composed of Montgomery County.

(b) The 435th District Court shall give preference to:

(1) civil commitment proceedings under Chapter 841, Health and Safety Code;

(2) criminal cases involving offenses under Section 841.085, Health and Safety Code, and Article 62.203, Code of Criminal Procedure; and

(3) other matters that may be assigned by the administrative judge.

(b) The 435th Judicial District is created on the effective date of this section.

SECTION 6. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.589 to read as follows:

Sec. 24.589. 445TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 445th Judicial District is composed of Cameron County.

(b) The 445th District Court shall give preference to criminal law cases.

(b) The 445th Judicial District is created on the effective date of this section.

SECTION 7. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.592 to read as follows:

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). The 448th Judicial District is composed of El Paso County.

(b) The 448th Judicial District is created on the effective date of this section.

SECTION 8. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.593 to read as follows:

Sec. 24.593. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 449th Judicial District is composed of Hidalgo County.

(b) The 449th District Court shall give preference to juvenile matters.

(b) The 449th Judicial District is created on the effective date of this section.

SECTION 9. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.5995 to read as follows:

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). The 506th Judicial District is composed of Grimes and Waller Counties.

(b) The local administrative district judge shall transfer all cases from Waller County that are pending in the 9th District Court to the 506th District Court on the date the 506th District Court is created.

(c) When a case is transferred as provided by Subsection (b) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 9th District Court are returnable to the 506th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 9th District Court and all witnesses summoned to appear in the 9th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(d) The 506th Judicial District is created on the date the Office of Court Administration of the Texas Judicial System certifies to the comptroller of public accounts and commissioners courts of Grimes and Waller Counties that the office has determined that the total average population for the district courts that serve Grimes and Waller Counties and that are in existence as of January 1, 2007, is greater than the statewide average population per district court.

SECTION 10. (a) Subchapter D, Chapter 24, Government Code, is amended by adding Section 24.640 to read as follows:

Sec. 24.640. 444TH JUDICIAL DISTRICT (CAMERON COUNTY). The 444th Judicial District is composed of Cameron County.

(b) The 444th Judicial District is created on the effective date of this section.

SECTION 11. (a) Subchapter E, Chapter 24, Government Code, is amended by adding Section 24.908 to read as follows:

Sec. 24.908. EL PASO COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1.

(a) The El Paso County Criminal Judicial District No. 1 is composed of El Paso County.

(b) The El Paso County Criminal District Court No. 1 shall give primary preference to felony drug cases and associated civil cases emanating from those felony drug cases. The criminal district court shall give secondary preference to other criminal cases and associated civil cases emanating from those criminal cases.

(c) The terms of the El Paso County Criminal District Court No. 1 begin on the third Mondays in April and September and the first Mondays in January, July, and November.

(d) The El Paso County Criminal District Court No. 1 shall have a seal similar to the seal of a district court with "El Paso County Criminal District Court No. 1" engraved on the seal.

(b) The El Paso County Criminal Judicial District No. 1 is created on the effective date of this section.

SECTION 12. (a) Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.2361 to read as follows:

Sec. 25.2361. VAN ZANDT COUNTY. Van Zandt County has one statutory county court, the County Court at Law of Van Zandt County.

(b) The County Court at Law of Van Zandt County is created January 1, 2011.

(c) This section takes effect January 1, 2011.

SECTION 13. Section 43.119, Government Code, is amended to read as follows:

Sec. 43.119. 33RD JUDICIAL DISTRICT. The voters of Blanco, Burnet, Llano, and San Saba Counties [~~the 33rd Judicial District~~] elect a district attorney for the 33rd and 424th Judicial Districts.

SECTION 14. Section 43.148, Government Code, is amended to read as follows:

Sec. 43.148. 105TH JUDICIAL DISTRICT. (a) The voters of Nueces County [~~the 105th Judicial District~~] elect a district attorney for the 105th Judicial District who [~~The district attorney~~] has the same powers and duties as other district attorneys and serves all the district, county, and justice courts of Nueces County [~~and the district courts of Kleberg and Kenedy counties~~].

(b) The district attorney shall attend each term and session of the district, county, and justice courts of Nueces County [~~and the district courts of Kleberg and Kenedy counties~~] and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners court [~~courts~~] of Nueces County [~~the counties comprising the district~~] may supplement the state salary of the district attorney. The amount of the supplement may not exceed \$12,000 a year. [~~The supplemental salary must be paid proportionately by the commissioners court of each county according to the population of the county.~~] The supplemental salary may be paid from the officers' salary fund of the [a] county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

SECTION 15. Subchapter B, Chapter 43, Government Code, is amended by adding Section 43.182 to read as follows:

Sec. 43.182. DISTRICT ATTORNEY FOR KLEBERG AND KENEDY COUNTIES. (a) The voters of Kleberg and Kenedy Counties elect a district attorney. The district attorney has the same powers and duties as other district attorneys and serves the district courts of Kleberg and Kenedy Counties.

(b) The district attorney shall attend each term and session of the district courts of Kleberg and Kenedy Counties and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners courts of the counties comprising the district may supplement the state salary of the district attorney. The amount of the supplement may not exceed \$12,000 a year. The supplemental salary must be paid proportionately by the commissioners court of each county according to the population of the county. The supplemental salary may be paid from the officers' salary fund of a county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

SECTION 16. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to all county prosecutors and to the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th,

69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 110th, 112th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 278th, 286th, 329th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Fannin, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 17. Effective January 1, 2009, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to all county prosecutors and to the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 110th, 112th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 278th, 286th, 329th, 344th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Fannin, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 18. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

The amendment to **HB 4139** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4139 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4139 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4139** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 649 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 649** at this time on its second reading:

HB 649, Relating to the fraudulent use of a child's identifying information.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 649 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 649** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 945 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 945** at this time on its second reading:

CSHB 945, Relating to the dates on which certain independent school districts may hold an election of trustees.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 945** by adding the following appropriately numbered section to read as follows and by renumbering the existing sections of the substitute as appropriate:

SECTION __. Section 11.0581(a), Education Code, is amended to read as follows:

(a) An election for trustees of an independent school district shall be held on the same date as:

(1) the election for the members of the governing body of a municipality located in the school district; ~~[or]~~
(2) the general election for state and county officers; or
(3) the election for the members of the governing body of a hospital district, if the school district held its election for trustees jointly with the election for the members of the governing body of the hospital district before May 2007.

The amendment to **CSHB 945** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 945 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 945 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 945** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4110 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4110** at this time on its second reading:

CSHB 4110, Relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4110 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4110** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1609 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1609** at this time on its second reading:

CSHB 1609, Relating to the Communities In Schools program.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1609 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1609** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3070 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3070** at this time on its second reading:

HB 3070, Relating to a study of methods for increasing the availability of certain information on energy efficiency of certain residential property.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3070 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3070** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1457 ON SECOND READING**

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1457** at this time on its second reading:

CSHB 1457, Relating to the acceptable methods for disposal of poultry carcasses.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1457 ON THIRD READING**

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1457** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3552 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3552** at this time on its second reading:

HB 3552, Relating to the issuance of private activity bonds.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3552** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 1372.0221, Government Code, is amended to read as follows:

Sec. 1372.0221. DEDICATION OF PORTION OF STATE CEILING FOR PROFESSIONAL EDUCATORS HOME LOAN PROGRAM. Until August 7 [+], out of that portion of the state ceiling that is available exclusively for reservations by the Texas State Affordable Housing Corporation [~~issuers of qualified mortgage bonds~~] under Section 1372.0223, 54.5 percent [~~1372.022, \$25 million~~] shall be allotted each year and made available [~~exclusively~~] to the corporation [~~Texas State Affordable Housing Corporation~~] for the purpose of issuing qualified mortgage bonds in connection with the professional educators home loan program established under Section 2306.562.

SECTION _____. Section 1372.0222, Government Code, is amended to read as follows:

Sec. 1372.0222. DEDICATION OF PORTION OF STATE CEILING FOR FIRE FIGHTER AND LAW ENFORCEMENT OR SECURITY OFFICER HOME LOAN PROGRAM. Until August 7 [+], out of that portion of the state ceiling that is available exclusively for reservations by the Texas State Affordable Housing Corporation [~~issuers of qualified mortgage bonds~~] under Section 1372.0223, 45.5 percent [~~1372.022, \$25 million~~] shall be allotted each year and made available

~~[exclusively]~~ to the corporation ~~[Texas State Affordable Housing Corporation]~~ for the purpose of issuing qualified mortgage bonds in connection with the fire fighter, law enforcement officer, and security officer home loan program established under Section 2306.5621.

SECTION _____. Section 1372.0223, Government Code, is amended to read as follows:

Sec. 1372.0223. DEDICATION OF PORTION OF STATE CEILING TO CERTAIN ISSUERS OF QUALIFIED MORTGAGE BONDS ~~[FOR PROFESSIONAL NURSING PROGRAM FACULTY MEMBER HOME LOAN PROGRAM]~~. Until August 7 ~~[+]~~, out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022:

(1) 10 percent is~~[, \$5 million shall be allotted each year and made]~~ available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds; and

(2) 56.66 percent is available exclusively to housing finance corporations for the purpose of issuing qualified mortgage bonds ~~[in connection with the professional nursing program faculty member home loan program established under Section 2306.5622]~~.

SECTION _____. Section 1372.023(a), Government Code, is amended to read as follows:

(a) Until August 7 ~~[+]~~, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, 33.34 percent ~~[one third]~~ is available exclusively to the Texas Department of Housing and Community Affairs for the purpose of issuing qualified mortgage bonds.

SECTION _____. Section 1372.037(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), before August 15 ~~[September 1]~~ the board may not grant for any single project a reservation for that year that is greater than:

(1) \$25 million, if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation;

(2) \$50 million, if the issuer is an issuer of a state-voted issue, other than the Texas Higher Education Coordinating Board, or \$75 million, if the issuer is the Texas Higher Education Coordinating Board;

(3) the amount to which the Internal Revenue Code limits issuers of qualified small issue bonds and enterprise zone facility bonds, if the issuer is an issuer of those bonds;

(4) the lesser of \$15 million or 15 percent of the amount set aside for reservation by issuers of qualified residential rental project bonds, if the issuer is an issuer of those bonds;

(5) the amount as prescribed in Sections 1372.033(d), (e), and (f), if the issuer is an issuer authorized by Section 53.47, Education Code, to issue qualified student loan bonds; or

(6) \$50 million, if the issuer is any other issuer of bonds that require an allocation.

SECTION _____. Sections 2306.553(a) and (b), Government Code, are amended to read as follows:

(a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income and[;] for persons who are eligible for loans [~~professional educators~~] under the [~~professional educators~~] home loan programs [~~program as~~] provided by Sections [~~Section~~] 2306.562 and[;] ~~for fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program as provided by Section~~] 2306.5621[;] ~~and for professional nursing program faculty members under the professional nursing program faculty member home loan program as provided by Section 2306.5622~~]. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

(b) The corporation's primary public purpose is to facilitate the provision of housing by issuing qualified 501(c)(3) bonds and qualified residential rental project bonds and by making affordable loans to individuals and families of low, very low, and extremely low income and[;] to persons who are eligible for loans under the home loan programs provided by Sections 2306.562 and 2306.5621 [~~professional educators under the professional educators home loan program, to fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program, and to professional nursing program faculty members under the professional nursing program faculty member home loan program~~]. The corporation may make first lien, single family purchase money mortgage loans for single family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

SECTION _____. Sections 2306.562(a), (b), and (c), Government Code, are amended to read as follows:

(a) In this section:

(1) "Allied health program faculty member" means a full-time member of the faculty of an undergraduate or graduate allied health program of a public or private institution of higher education in this state.

(1-a) "Graduate allied health program" means a postbaccalaureate certificate or master's or doctoral degree program in an allied health profession that is accredited by an accrediting entity recognized by the United States Department of Education.

(1-b) "Graduate professional nursing program" and "undergraduate professional nursing program" have the meanings assigned by Section 54.221, Education Code.

(2) "Home" means a dwelling in this state in which a professional educator intends to reside as the professional educator's principal residence.

(3) ~~(2)~~ "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) ~~(3)~~ "Professional educator" means a classroom teacher, full-time paid teacher's aide, full-time librarian, full-time counselor certified under Subchapter B, Chapter 21, Education Code, ~~or~~ full-time school nurse, or allied health or professional nursing program faculty member.

(5) "Professional nursing program faculty member" means a full-time member of the faculty of either an undergraduate or graduate professional nursing program.

(6) ~~(4)~~ "Program" means the professional educators home loan program.

(7) "Undergraduate allied health program" means an undergraduate degree or certificate program that:

(A) prepares students for licensure, certification, or registration in an allied health profession; and

(B) is accredited by an accrediting entity recognized by the United States Department of Education.

(b) The corporation shall establish a program to provide low-interest home mortgage loans to eligible professional educators whose income does not exceed the greater of:

(1) 115 percent of area median family income, adjusted for family size; or

(2) the maximum amount permitted by Section 143(f), Internal Revenue Code of 1986, ~~with low interest home mortgage loans~~.

(c) To be eligible for a loan under this section, a professional educator must:

(1) reside in this state on the application date; and

(2) be employed by a school district or be an allied health or professional nursing program faculty member in this state on the application date.

SECTION ____. Section 2306.5622, Government Code, is repealed.

The amendment to **HB 3552** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3552 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3552 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3552** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar by 4:00 p.m., was again suspended and the time was extended to 10:00 p.m. today.

HOUSE JOINT RESOLUTION 54 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 54** at this time on its second reading:

HJR 54, Proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation one motor vehicle owned by an individual and used in the course of the owner's occupation or profession and also for personal activities of the owner.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE JOINT RESOLUTION 54 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 54** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1022 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1022** at this time on its second reading:

HB 1022, Relating to the exemption from ad valorem taxation of a motor vehicle owned by an individual and used in the course of the owner's occupation or profession and also for personal activities of the owner and to the rendition of such vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1022 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1022** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2074 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2074** at this time on its second reading:

CSHB 2074, Relating to the creation of the East Williamson County Multi-Institution Teaching Center.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2074 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2074** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3358 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3358** at this time on its second reading:

CSHB 3358, Relating to prior approval of property and casualty insurance rates under certain circumstances.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3358 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3358** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 4085 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4085** at this time on its second reading:

HB 4085, Relating to the creation of the Triple Creek Municipal Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4085 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4085** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 4069 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4069** at this time on its second reading:

HB 4069, Relating to the creation of the Platinum Ranch Municipal Utility District No. 1 of Grayson County; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4069** by striking all below the enacting clause and substituting the following:

ARTICLE 1. DOUBLE PLATINUM RANCH WATER
CONTROL AND IMPROVEMENT DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 1.01. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9206 to read as follows:

CHAPTER 9206. DOUBLE PLATINUM RANCH WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 1 OF GRAYSON COUNTY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9206.001. 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 Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County.

Sec. 9206.002. NATURE OF DISTRICT. The district is a water control and improvement district in Grayson County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9206.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 9206.064 before September 1, 2011:

(1) the district is dissolved 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 Grayson 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, 2014.

Sec. 9206.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 1.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 1.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or other indebtedness; or

(4) the legality or operation of the district or the board.

Sec. 9206.005. ANNEXATION BY CITY OF GUNTER. (a) Notwithstanding any other law, if all of the territory of the district is annexed by the City of Gunter into the corporate limits of that municipality before the date of the election held to confirm the creation of the district, the district may not be dissolved and shall continue until the district is dissolved under Section 43.074, Local Government Code.

(b) Any future annexation or inclusion of additional territory into a district governed by this chapter may not occur unless the City of Gunter is allowed to voluntarily annex the same territory into its corporate limits.

[Sections 9206.006-9206.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9206.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 9206.061 of this code and Section 49.102, Water Code, directors serve staggered four-year terms, with the terms of two or three directors expiring June 1 of each even-numbered year.

Sec. 9206.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 9206.053-9206.060 reserved for expansion]

SUBCHAPTER B-1. TEMPORARY PROVISIONS

Sec. 9206.061. INITIAL DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as initial directors the five persons named in the petition.

(b) The commission shall appoint as initial directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If an initial director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Initial directors serve until the earlier of:

(1) the date the first directors are elected at the confirmation election under Section 9206.064; or

(2) the date this subchapter expires under Section 9206.066.

Sec. 9206.062. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. As soon as practicable after all the initial directors have qualified under Section 49.055, Water Code, the initial directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the initial directors shall elect officers from among the initial directors and conduct any other district business.

Sec. 9206.063. CONSENT OF MUNICIPALITY REQUIRED. The initial directors may not hold an election under Section 9206.064 until all of the territory of the district is included in the corporate limits of the City of Gunter.

Sec. 9206.064. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The initial directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 9206.065. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 9206.064 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.

Sec. 9206.066. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 9206.067-9206.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9206.101. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. (a) The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

(b) Notwithstanding Subsection (a), the district may not act as a retail provider of water or wastewater services.

(c) The district shall make its water and wastewater facilities available to an entity holding the applicable certificate of convenience and necessity.

Sec. 9206.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) If a portion of the territory of the district is excluded from the corporate limits of the City of Gunter, the district shall:

(1) improve, maintain, repair, and operate the roads located in that portion of territory in accordance with the ordinances and rules of the political subdivision possessing jurisdiction over the roads in that portion of territory; and

(2) pay the entire cost of performing the district's duties under Subdivision (1).

Sec. 9206.103. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) each new district is within the corporate limits of the City of Gunter.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Sections 51.748 through 51.753, Water Code, do not apply to the district.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) At the time of creation, any new district created by the division of the district may not contain any land outside the area described by Section 1.02 of the article creating this chapter.

[Sections 9206.104-9206.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9206.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 9206.201.

[Sections 9206.152-9206.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9206.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 51, Water Code, to finance the construction, maintenance, or operation of a project under Section 9206.101 or 9206.102.

(b) The district may not issue bonds to finance projects authorized by Section 9206.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 9206.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 1.02. The Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County includes all the territory contained in the following area:

TRACT ONE:

All that certain tract or parcel of land situated in the John Palms Survey, Abstract Number 926, County of Grayson, State of Texas, said tract being part of a called 197.3 acre tract as described in Deed to Dryden Dorchester Ltd., filed 27 December 2000, and Recorded in Volume 3014, Page 743 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

BEGINNING for the northeast corner of the tract being herein at a Wood Fence corner Post, said post being the northeast corner of said Dryden tract, and the southeast corner of a tract as described in Deed to Gordon W. Doodier et ux, Delores Goodier, filed 14 January 1971, and Recorded in Volume 1179, Page 63 of said Deed Records, said post also being on a west line of a called 1022 acre tract as described in Tract 7 in Deed to Jeribeth Sharp, filed 30 June 1998, and Recorded in Volume 2668 Page 09 of said Deed Records;

THENCE South 00 degrees 20 minutes 01 seconds East, with the east line of said Dryden tract, and west line of said Sharp tract, a distance of 3318.06 feet to a set ½ inch Steel Square Tubing for the southeast corner of said Dryden tract, and an ell corner of said Sharp tract;

THENCE South 88 degrees 45 minutes 58 8 seconds West, with the south line at said Dryden tract, a distance of 2576.18 feet to a set 1½ inch Steel Square Tubing for the southwest corner of said Dryden tract, and an ell corner of said Sharp tract, Thence: North 00 degrees 23 minutes 33 seconds West, with the west line of said Dryden tract, a distance of 3325.00 feet to a found ½ inch Steel Rebar at the base of a wood fence corner post, being an ell corner of said Dryden tract and Sharp tract and the Palms Survey, and being the northeast corner of the John D. Nelson Survey, Abstract Number 902;

THENCE South 89 degrees 45 minutes 03 seconds West, with a wire fence line, and a south line of said Dryden tract, and a line of said Sharp tract, a distance of 790.04 feet to a Wood Fence post for the southwest corner of said Dryden tract, an ell corner of said Palms Survey, and the southeast corner of the Antonia Hernandez Survey, Abstract Number 489;

THENCE North, a distance of 26.12 feet to a set ½ inch Steel Square Tubing Ike the northwest corner of said Dryden tract, and the southwest corner of a tract described in Deed to Marjoriet Limited, filed 24 March 1999, and Recorded in Volume 2769 Page 624 of said Deed Records;

THENCE North 89 degrees 45 minutes 03 seconds East, with the north line of said Dryden tract, and the south line of said Marjoriet tract, a distance of 789.43 feet to a Wood Fence corner Post for a corner;

THENCE North 89 degrees 30 minuses 06 seconds East, with the north line of said Dryden tract, and passing the southeast corner of said Marjoriet tract, and the southwest corner of said Goodier tract, and continuing on said course for a total distance of 2579.75 feet to the POINT OF BEGINNING and containing 197.783 acres of land.

TRACT TWO:

Being a 1,022.20 acre tract of land situated in the John Palms Survey, Abstract No. 926, and the John D. Nelson Survey, Abstract No. 902, and being that certain tract of land conveyed to as Tract I, to Marita Wiseman Sharp, Marita Wiseman Sharp Grantor Trust, and Billy Jack Sharp Grantor Trust, by deed recorded in Volume 2427, Page 448, and also conveyed as Tract 7, to Billy Jack Sharp Grantor Trust, by deed recorded in Volume 2668, Page 00009, all of the Deed Records of Grayson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod set for corner, said point being the southeast corner of said Billy Jack Sharp Grantor Trust tract, and being at the centerline intersection more or less, of McDonald Road, and Kimberlin Road;

THENCE North 86°52'06" West, along the common line of said Billy Jack Sharp Grantor Trust tract, and the centerline more or less of said Kimberlin Road, and along the south line of said Palms Survey, passing the southwest corner of said Palms Survey, same being the southeast corner of said Nelson Survey, and continuing along the south line of said Nelson Survey, a distance of 6400.79 feet to a 1/2 inch iron rod set for corner, said point being in the centerline of Kimberlin Road more or less, said point being the southwest corner of said Billy Jack Sharp Grantor Trust tract, and being the southeast corner of a called 1073.77 acre tract of land conveyed to Davidson Land and Cattle Company, by deed recorded in Volume 2235, Page 583, of the Deed Records of Grayson County, Texas;

THENCE North 02°35'02" East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 3806.58 feet to a 1/2 inch iron rod found for corner;

THENCE North 85°53'34" West, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 150.50 feet to a 1/2 inch iron rod found for corner;

THENCE North 02°33'45" East, continuing along the common line of said Billy Sank Grantor Trust tract, and said called 1073.77 acre tract, a distance of 1112.85 feet to a 1/2 inch iron rod found for corner;

THENCE South 87°09'16" East, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 149.97 feet to a 1/2 inch iron rod found for corner;

THENCE North 02°38'21" East, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 2500.00 feet to a 1/2 inch iron rod found for corner, said point being in the north line of said Nelson Survey, and the south line of Antonio Hernandez Survey, Abstract No. 489, and being in the south line of a called 300 acre tract of land conveyed to Lucian Touchtone, et ux, by deed recorded in Volume 1013, Page 677, of the Deed Records of Grayson County, Texas, and being the northeast corner of said called 1073.77 acre tract, and being the northwest corner of said Billy Jack Sharp Grantor Trust tract;

THENCE South 87°07'47" East, along the common line of said Palms Survey, and the said Antonio Survey, and the common line of said Billy Jack Sharp Grantor Trust tract, and said called 300 acre tract, and passing the southeast corner of said called 300 acre tract, same being the southeast corner of said Antonio Survey, same being the southwest corner of said Palms Survey, and being the southwest corner of a called 108.84 acre tract of land conveyed to Lucian Touchtone, by deed recorded in

Volume 1219, Page 360, of the Deed Records of Grayson County, Texas, and continuing a total distance of 2698.53 feet to a 1/2 inch iron rod found for corner, said point being the northeast corner of said Nelson Survey, and an ell corner of a called 197.3 acre tract of land conveyed to S.A. Schott by deed recorded in Volume 359, Page 369, of the Deed Records of Grayson County, Texas;

THENCE South $02^{\circ}52'48''$ West, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 3325.00 feet to a 1/2 inch iron rod set for corner, said point being the southwest corner of said called 197.3 acre tract;

THENCE South $87^{\circ}56'40''$ East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 2577.31 feet to a 1/2 inch iron rod set for corner, said point being the southeast corner of said called 197.3 acre tract;

THENCE North $02^{\circ}54'54''$ East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 3318.06 feet to a 1/2 inch iron rod set for corner, said point being the northwest corner of said called 197.3 acre tract, same being the southeast corner of a called 245.67 acre tract of land conveyed to Gordon W. Goodier, et ux, by deed recorded in Volume 1179, Page 63, of the Deed Records of Grayson County, Texas;

THENCE North $03^{\circ}09'39''$ East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 245.67 acre tract, a distance of 4542.15 feet to a 1/2 inch iron rod found for corner, said point being the northwest corner of said Billy Jack Sharp Grantor Trust tract, same being the northeast corner of said called 245.67 acre tract, and being in the south right-of-way line of F.M. Highway 902;

THENCE South $86^{\circ}51'00''$ East, along the north line of said Billy Jack Sharp Grantor Trust tract, with the south right-of-way line of F.M. Highway 902, a distance of 1119.25 feet to a railroad spike found for corner, said point being in the centerline intersection more or less of the south right-of-way line of F.M. Highway 902, and McDonald Road, and being in the east line of said Palms Survey;

THENCE South $02^{\circ}47'31''$ West, with the east line of said Palms Survey, and the east line of said Billy Jack Sharp Grantor Trust tract, and along the centerline of McDonald Road more or less, a distance of 12,018.20 feet to the POINT OF BEGINNING and containing 44,527,033 square feet or 1,022.20 acres of computed land.

SECTION 1.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 1.04. This article takes effect September 1, 2007.

ARTICLE 2. KIMBERLIN RANCH MUNICIPAL
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 2.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8264 to read as follows:

CHAPTER 8264. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT NO. 1
OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8264.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District No. 1

of Grayson County.

Sec. 8264.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8264.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8264.023 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 Grayson 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. 8264.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 2.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the legality or operation of the district or the board.

[Sections 8264.005-8264.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8264.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8264.023; or

(2) the date this chapter expires under Section 8264.003.

Sec. 8264.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8264.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 2.02 of the article creating this chapter.

Sec. 8264.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8264.023 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.

Sec. 8264.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8264.026-8264.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8264.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8264.052-8264.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8264.101. 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. 8264.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8264.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8264.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8264.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 2.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8264.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8264.107-8264.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8264.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8264.201.

[Sections 8264.152-8264.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8264.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8264.101 or 8264.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8264.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8264.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2.02. The Kimberlin Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

BEING situated in the County of Grayson, State of Texas, being parts of the JOHN NELSON SURVEY, ABSTRACT NO. 902, the JOHN W. BERGIN SURVEY, ABSTRACT NO. 75, and the ANTONIO HERNANDEZ SURVEY, ABSTRACT NO. 489, also being the 1073.77 acre tract of land conveyed to Davidson Land and

Cattle Company, L.P. by deed recorded in Volume 2235, Page 597, Real Property Records, GRAYSON County, Texas and being described by metes and bounds as follows:

BEGINNING at a 2 inch steel rod set at the Southeast corner of the 758.750 acre tract of land conveyed to Larry Lehman, et ux, by deed of record in Volume 2555, Page 624-655, of said Real Property Records, the Southwest corner of said 1073.77 acre tract of land, said rod also being in the North line of the 208.67 acre tract of land conveyed to James and Juanell Bridges Family Living Trust by deed of record in Volume 2506, Page 146, of said Real Property Records;

THENCE North 00 degrees 00 minutes 00 seconds West with the West line of said 1073.77 acre tract and the center of a public road a distance of 4674.02 feet to a 2 inch steel rod set at the Southwest corner of a 177.93 acre tract of land conveyed to Louis M. Rexrode, et ux, by deed of record in Volume 2205, Page 639, of said Real Property Records, also being the Southeast corner of the 133.05 acre tract of land conveyed to Henry S. Jackson, et ux, by deed of record in Volume 2059, Page 273, of said Real Property Records;

THENCE North 89 degrees 22 minutes 34 seconds East with the South line of said 177.93 acre tract a distance of 2805.74 feet to a 2 inch steel rod set at a found wooden stake at the Southeast corner of said 177.93 acre tract;

THENCE North 00 degrees 32 minutes 19 seconds West with a fence and the East line of said 177.93 acre tract of land a distance of 2774.19 feet to a 2 inch steel rod set at a found wooden stake at the Northeast corner of said 177.93 acre tract;

THENCE South 89 degrees 47 minutes 48 seconds West with the North line of said 177.93 acre tract of land a distance of 2765.01 feet to a 2 inch steel rod set at the Northwest corner of said 177.93 acre tract, being in the East line of said 133.05 acre tract;

THENCE North 00 degrees 00 minutes 00 seconds West with the center of a public road and said East line a distance of 1296.86 feet to a 2 inch steel rod set at the Northwest corner of said 1073.77 acre tract, the Southeast corner of the 362.631 acre tract of land conveyed to Taylor Strawn and Ernest B. Strawn, Jr., by deed of record in Volume 2209, Page 772, of said Real Property Records, also being the Southwest corner of the 121.14 acre tract of land described as Part Two and conveyed to Jeribeth Sharp by deed of record in Volume 2668, Page 009, of said Real Property Records;

THENCE North 89 degrees 37 minutes 51 seconds East with the South line of said 121.14 acre tract, a distance of 4016.31 feet to a 2 inch steel rod set at a fence corner, being the Southeast corner of said 121.14 acre tract;

THENCE South 00 degrees 10 minutes 16 seconds East with a fence a distance of 1298.84 feet to a 2 inch steel rod set at a fence post;

THENCE North 89 degrees 30 minutes 06 seconds East with a fence a distance of 2512.99 feet to a 2 inch steel rod set at the most Easterly Northeast corner of said 1073.77 acre tract, the Northwest corner of the 1022.21 acre tract of land described as Part One as conveyed to Jeribeth Sharp by deed of record in Volume 2668, Page 009, of said Real Property Records;

THENCE with the West line of said 1022.21 acre tract of land and an existing fence line, the following calls and distances:

South 00 degrees 40 minutes 13 seconds East, a distance of 2497.50 feet to a 2 inch steel rod set at a fence corner;

South 89 degrees 32 minutes 01 seconds West a distance of 150.18 feet to a 2 inch steel rod set a fence corner;

South 00 degrees 44 minutes 41 seconds East_ a distance of 1112.81 feet to a 2 inch steel rod set a fence corner;

South 89 degrees 13 minutes 04 seconds East a distance of 150.56 feet to a 2 inch steel rod set a fence corner;

South 00 degrees 45 minutes 51 seconds East a distance of 3832.16 feet to a 2 inch steel rod set in a public road, being the Southeast corner of said 1073.77 acre tract, also being in the North line of the 67 acre tract of land conveyed to James S. Rodgers, et ux, by deed of record in Volume 1045, Page 759, of the Deed Records, Grayson County, Texas;

THENCE South 89 degrees 24 minutes 04 seconds West with the South line of said 1073.77 acre tract a distance of 6642.95 feet to the POINT OF BEGINNING and CONTAINING 1065.860 acres of land, more or less.

SECTION 2.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 2.04. This article takes effect September 1, 2007.

ARTICLE 3. KIMBERLIN RANCH MUNICIPAL
UTILITY DISTRICT NO. 2 OF GRAYSON COUNTY

SECTION 3.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8265 to read as follows:

CHAPTER 8265. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT NO. 2
OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8265.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District No. 2

of Grayson County.

Sec. 8265.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8265.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8265.023 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 Grayson 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. 8265.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 3.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 3.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8265.005-8265.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8265.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

- (1) the date directors are elected under Section 8265.023; or
- (2) the date this chapter expires under Section 8265.003.

Sec. 8265.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8265.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 3.02 of the article creating this chapter.

Sec. 8265.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8265.023 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.

Sec. 8265.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8265.026-8265.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8265.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8265.052-8265.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8265.101. 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. 8265.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8265.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8265.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8265.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 3.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8265.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8265.107-8265.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8265.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8264.201.

[Sections 8265.152-8265.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8265.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8265.101 or 8265.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8265.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8265.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 3.02. The Kimberlin Ranch Municipal Utility District No. 2 of Grayson County includes all the territory contained in the following area:

SITUATED in the County of GRAYSON, State of Texas, being a part of the ROBERT MASON SURVEY, ABSTRACT NO. 784 and the SAMUEL Q. PETTUS SURVEY, ABSTRACT NO. 939, being a part of a 297.715 acre tract of land (described as 300.715 acres less 3.00 acres) conveyed by Regis J. Sutton to Jean Anna Sutton in Agreement of Regis J. Sutton and Jean Anna Sutton Partitioning Community Property dated June 3, 1983, recorded in Volume 1650, Page 260, Deed Records, GRAYSON County, Texas, and being more particularly described by metes and bounds as follows to-wit:

BEGINNING at a found 1/2 inch rebar on the most Southerly South line of said 297.715 acre tract, the North line of a 201.711 acre tract of land conveyed by Charles C. Graham, et ux to Mario Feliciano, Trustee by Deed dated July 9, 1980, recorded in Volume 1523, Page 109, Deed Records, GRAYSON County, Texas, said rebar being North 87 degrees 08 minutes 06 seconds West, a distance of 626.13 feet from a found spike nail maintaining the most Southerly Southeast corner of said 297.715 acre tract, the most Northerly Northeast corner of said 201.711 acre tract, in a public road known as Wall Street Road and on an East line of said Mason Survey, the West line of the William Kinnamon Survey, Abstract No. 676;

THENCE North 87 degrees 08 minutes 06 seconds West, with the general line of a fence, the most Southerly South line of said 297.715 acre tract, the North line of said 201.711 acre tract, a distance of 1141.44 feet to a fence post;

THENCE North 87 degrees 24 minutes 28 seconds West, continuing with the general line of said fence, the Southerly South line of said 297.715 acre tract, the North line of said 201.77 acre tract, a distance of 2156.98 feet to a set spike nail at the base of a fence corner post for the Northwest corner of said 201.711 acre tract, the most Southerly Southwest corner of said 297.715 acre tract, on the East line of a 223.5639 acre tract of land conveyed by Kent Berlin to The Berlin Family Limited Partnership by Deed dated January 10, 2000, recorded in Volume 2881, Page 924, Official Public Records, GRAYSON County, Texas;

THENCE North 03 degrees 33 minutes 37 seconds East, with the general line of a fence, the East line of said 223.5639 acre tract, a distance of 1112.63 feet to a fence corner post maintaining the Northeast corner of said 223.5639 acre tract, an ell corner of said 297.715 acre tract on a North line of said Mason Survey, the South line of said Pettus Survey;

THENCE North 87 degrees 19 minutes 23 seconds West, with the general line of a fence, the North line of said 223.5639 acre tract, a North line of said Mason Survey, the South line of said Pettus Survey, passing the Northwest corner of said 223.5639 acre tract, the Northeast corner of a 20 foot wide strip of land described in Second Tract in Deed from George M. Carter, et ux to Joe D. Johnson by Deed dated March 29, 1961, recorded in Volume 930, Page 211, Deed Records, GRAYSON County, Texas and continuing for a total distance of 2911.41 feet to a set spike nail at the base of a fence corner post for the Northwest corner of said Mason Survey, the most Westerly Southwest corner of said 297.715 acre tract, the Southwest corner of said Pettus Survey, on the East line of the Sarah Shoto Survey, Abstract No. 1079, the East line of a 100 acre tract of land described in First Tract in said Volume 930, Page 211;

THENCE North 03 degrees 27 minutes 34 seconds East, with the West line of said Pettus Survey, the East line of both said Shoto Survey and 100 acre tract, passing the Northeast corner of said 100 acre tract, the Southeast corner of a 499.67 acre tract of land conveyed by Mary H. Martinek to Mary H. Martinek, Trustee of the Mary H. Martinek Revocable Living Trust by Deed dated April 11, 1997, recorded in Volume 2562, Page 196, Official Public Records, GRAYSON County, Texas and continuing with an East line of said 499.67 acre tract for a total distance of 1263.89 feet to a found 1/2 inch rebar at the base of a fence corner post, said rebar maintaining the Northwest corner of said 297.715 acre tract, the Southwest corner of a 223 acre tract of land now or formerly owned by Thelma Hunter (no Deed reference available);

THENCE South 87 degrees 25 minutes 47 seconds East, with the general line of a fence, the South line of said 223 acre tract, at a distance of 6798.67 feet to a found 3/8 inch rebar maintaining the Southeast corner of said 223 acre tract, the most Northerly Northeast corner of said 297.715 acre tract, in said Wall Street Road and on the East line of said Pettus Survey, the West line of said William Kinnamon Survey, the West line of a tract of land described in North Tract in Quitclaim Deed dated September 30, 1997 from Susan C. deCordova to Susan C. deCordova, Trustee of the deCordova Trust recorded in Volume 2577, Page 155, Official Public Records, GRAYSON County, Texas;

THENCE South 03 degrees 15 minutes 00 seconds West, with an East line of both said 297.715 acre tract and Mason Survey, the West line of both said Kinnamon Survey and North Tract, passing the Southeast corner of said Pettus Survey, the most

Northerly Northeast corner of said Mason Survey and continuing for a total distance of 1680.66 feet to a found spike nail maintaining a Southeast corner of said 297.715 acre tract, the Northeast corner of a 3.00 acre tract of land conveyed by Anna Houck Trust to AHG Trust by Deed dated January 30, 2002, recorded in Volume 3194, Page 458, Official Public Records, GRAYSON County, Texas;

THENCE North 87 degrees 04 minutes 00 seconds West with the North line of said 3.00 acre tract, a distance of 626.13 feet to a found 1/2 inch rebar maintaining its Northwest corner;

THENCE South 03 degrees 15 minutes 00 seconds West, with the West line of said 3.00 acre tract, at a distance of 208.71 feet passing a found 1/2 inch rebar maintaining its Southwest corner and continuing for a total distance of 711.76 feet to the PLACE OF BEGINNING and CONTAINING 288.92 acres of land, more or less.

TRACT 2

All that certain tract or parcel of land situated in the Robert Mason Survey, Abstract Number 784 County of Grayson, State of Texas, said tract being part of a called 69 1/2 acres tract as described in Deed to Marshall E. Anderson et ux, Marquerite Anderson, filed 11 January 1962, and Recorded in Volume 947 Page 387 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the northeast corner of the tract being described herein at a set 1 1/2 inch Steel Square Tubing, said tubing being the northeast corner of said Anderson tract, and the southeast corner of a called 100 acres tract as described in the First Tract, and on the west line of a called 1.56 acre tract as described in the Second tract in Deed to Joe D. Johnson, filed 30 March 1961, and Recorded in Volume 930 Page 211 of said Deed Records;

Thence: South 03 degrees 29 minutes 22 seconds West, with the east line of said Anderson tract, and with the west line of said Johnson Second Tract, a distance of 609.07 feet to a found 1/2 inch Steel Square Tubing for the northeast corner of a 1.25 acre tract as surveyed out for Dennis Keating dated 27 December 1999;

Thence: North 86 degrees 56 minutes 26 seconds West, with the north line of said Keating tract, a distance of 124.72 feet to a found 1/2 inch Steel Square Tubing for the northwest corner of said Keating tract;

Thence: South 03 degrees 32 minutes 41 seconds West, with the west line of said Keating tract, a distance of 435.58 feet to a found 1/2 inch Steel Square Tubing for the southwest corner of said Heating tract, and on the north Right-of-Way line of Farm-to-Market Road Number 121 as described in Deed to The State of Texas, filed 11 November 1953 and Recorded in Volume 744 Page 72 of said Deed Records

Thence: North 87 degrees 07 minutes 47 seconds West, with the south line of said Anderson tract, and the north ROW line of said FM 121, a distance of 1856.89 feet to a found State of Texas Concrete Right-of-Way Monument for a corner;

Thence: North 73 degrees 24 minutes 31 seconds West, with the south line of said Anderson tract, and the north ROW line of FM 121, a distance of 332.15 feet to a found 1/2 inch Steel Square Tubing for the southeast corner of a 5 acre tract as described in Deed to Ronald R. Baker et ux, Joanie C. Baker, filed 06 November 1995, and Recorded in Volume 2428 Page 31 of said Deed Records;

Thence: North 29 degrees 08 minutes 03 seconds West, with the east line of said Baker tract, a distance of 1078.23 feet to a found 1½ inch Steel Square Tubing for the northeast corner of said Baker tract, and on the south line of a tract as described in Deed to Steve Bryant et ux, Judy Bryant, filed 02 January 2003, and Recorded in Volume 3393 Page 846 of said Deed Records;

Thence: South 88 degrees 17 minutes 06 seconds East, with the north line of said Anderson tract, and with the south line of said Bryant tract, a distance of 1574.07 feet to a found 1½ inch Steel Rebar at the base of a wood fence corner post for the southeast corner of said Bryant tract, and the southwest corner of said Johnson First tract;

Thence: South 87 degrees 58 minutes 16 seconds East, with the north line of said Anderson tract, and the south line of said Johnson First Tract, a distance of 1313.83 feet to the POINT OF BEGINNING and containing 58.946 acres of land.

TRACT 3

All that certain tract or parcel of land situated in the Robert Mason Survey, Abstract Number 784 and the Sarah Shoto Survey, Abstract Number 1079, County of Grayson, State of Texas, said tract being all of a called 100 acres tract as described in the First Tract, and all of a called 1.56 acre tract as described in the Second tract in Deed to Joe D. Johnson, filed 30 March 1961, and Recorded in Volume 930 Page 211 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the southeast corner of the tract being described herein at a found 1½ inch Steel Square Tubing, said tubing being the southeast corner of said Johnson tract, and the southwest corner of a called 223.457 acre tract as described in Deed to Gunter 223, LTD, filed 06 June 2005, and Recorded in Volume 3870 Page 800 of said Deed Records, said tubing also being on the north Right-of-Way line of Farm-to-Market Road Number 121 as described in Deed to The State of Texas, filed 11 November 1953 and Recorded in Volume 744 Page 72 of said Deed Records;

Thence: North 86 degrees 52 minutes 52 seconds West, with the south line of said Johnson Seconds Tract, and with the north ROW line of said FM 121, a distance of 20.00 feet to a found 1½ inch Steel Square Tubing for the southwest corner of said Johnson Seconds Tract, and the southeast corner of a 1.25 acre tract as surveyed out for Dennis Keating dated 27 December 1999;

Thence: North 03 degrees 29 minutes 02 seconds East, with the west line of said Johnson Second tract, a distance of 1044.78 feet to a set 1½ inch Steel Square Tubing with a plastic cap marked COX 4577 for the southeast corner of said Johnson First tract and the northeast corner of a tract as described in Deed to Marshall E. Anderson et ux, Marquerite Anderson, filed 11 January 1962, and Recorded in Volume 947 Page 387 of said Deed Records;

Thence: North 87 degrees 58 minutes 16 seconds West, with the south line of said Johnson First Tract, and with the north line of said Anderson tract, a distance of 1313.82 feet to a found 1½ inch Steel Rebar for the southwest corner of said Johnson First Tract, and the southeast corner of a tract as described in Deed to Steve Bryant et ux, Judy Bryant, filed 02 January 2003, and Recorded in Volume 3393 Page 846 of said Deed Records;

Thence: North 03 degrees 21 minutes 26 seconds East, with the west line of said Johnson First Tract, a distance of 3311.44 feet to a Wood Fence corner Post for the northwest corner of said Johnson First Tract;

Thence: South 86 degrees 54 minutes 56 seconds East, with the north line of said Johnson First Tract, a distance of 1313.67 feet to a set 1/2 inch Steel Square Tubing for the northeast corner of said Johnson First Tract, and on the west line of a called 288.92 acre tract as described in Deed to Inwood Plaza Joint Venture, filed 07 January 2004, and Recorded in Volume 3594 Page 147 of said Deed Records;

Thence: South 03 degrees 27 minutes 34 seconds West, with the east line of said Johnson First Tract, a distance of 960.75 feet to a found 1/2 inch Steel Rebar at the base of a Wood Fence corner Post for the northwest corner of said Johnson Second Tract, and the southwest corner of said Inwood Plaza Joint Venture tract;

Thence: South 87 degrees 14 minutes 29 seconds East, with the north line of said Johnson Second Tract, and with the south line of said Inwood Plaza tract, a distance of 20.98 feet to a found 1/2 inch Steel Rebar at the base of a wood fence corner post for the northeast corner of said Johnson Second Tract, and the northwest corner of said Gunter 223 tract;

Thence: South 03 degrees 20 minutes 36 seconds West, with the east line of said Johnson Second Tract, and the west line of said Gunter 223 tract, a distance of 2326.24 feet to a Wood Fence corner Post for an angle point;

Thence: South 03 degrees 29 minutes 00 seconds West, with the east line of said Johnson Second Tract, and the west line of said Gunter 223 tract, a distance of 1045.16 feet to the POINT OF BEGINNING and containing 101.005 acre of land.

SECTION 3.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 3.04. This article takes effect September 1, 2007.

ARTICLE 4. KIMBERLIN RANCH MUNICIPAL
UTILITY DISTRICT NO. 3 OF GRAYSON COUNTY

SECTION 4.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8266 to read as follows:

CHAPTER 8266. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT NO. 3
OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8266.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District No. 3 of Grayson County.

Sec. 8266.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8266.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8266.023 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 Grayson 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. 8266.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 4.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 4.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the legality or operation of the district or the board.

[Sections 8266.005-8266.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8266.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8266.023; or

(2) the date this chapter expires under Section 8266.003.

Sec. 8266.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8266.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 4.02 of the article creating this chapter.

Sec. 8266.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8266.023 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.

Sec. 8266.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8266.026-8266.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8266.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8266.052-8266.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8266.101. 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. 8266.102. WATER AND WASTEWATER FACILITIES AND SERVICES.

(a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8266.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8266.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8266.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 4.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8266.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8266.107-8266.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8266.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8266.201.

[Sections 8266.152-8266.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8266.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8266.101 or 8266.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8266.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8266.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 4.02. The Kimberlin Ranch Municipal Utility District No. 3 of Grayson County includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the Ricardo Garcia Survey, Abstract Number 446 and the M.S. Herrera Survey, Abstract Number 545, County of Grayson, State of Texas, said tract being all of a 303.943 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 26 October 1996, and Recorded in Volume 2364 Page 637, and all of a 20.333 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 02 May 2003, and Recorded in Volume 3446 Page 71, and all of a 22.469 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 20 February 2004, and Recorded in Volume 3616 Page 79 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the southeast corner of the tract being described herein at a found 3¼ inch Steel Rod, said rod being the southeast corner of said Morgan 303.943 acre tract, and the northeast corner of a tract as described in Deed to Martinek Grain & Bin Inc., filed 03 August 1994, and Recorded in Volume 2352 Page 18 of said Deed Records, said rod also being in Scharff Road (gravel surfaced);

Thence: South 88 degrees 48 minutes 47 seconds West, with the south line of said Morgan 303.943acre tract, and passing at 22.90 feet a wood fence corner post on the west side of said road, and continuing on said course for a total distance of 3725.83 feet to a found 1/2 inch Steel Square Tubing with a plastic cap marked Cox 4577 for the southwest corner of said Morgan 303.943 acre tract, and the southeast corner of said Morgan 20.333 acre tract;

Thence: South 89 degrees 50 minutes 58 seconds West, with the south line of said Morgan 20.333 acre tract, a distance of 624.98 feet to a found 1/2 inch Steel Square Tubing with a plastic cap marked COX 4577 for the southwest corner of said Morgan 20.333 acre tract, and the southeast corner of said Morgan 22.469 acre tract;

Thence: South 89 degrees 52 minutes 55 seconds West, with the south line of said Morgan 22.469 acre tract, a distance of 719.91 feet to a found 1/2 inch Steel Square Tubing with a plastic cap marked COX 4577 for the southwest corner of said Morgan 22/469 acre tract;

Thence: North 01 degrees 01 minutes 06 seconds West, with the west line of said Morgan 22.469 acre tract, a distance of 1400.92 feet to a found 1/2 inch Steel Rebar by a wood Fence corner Post for the northwest corner of said Morgan 22.469 acre tract, and an ell corner of said Morgan 303.943 acre tract;

Thence: North 01 degrees 01 minutes 06 seconds West, with the west line of said Morgan 303.943 acre tract, a distance of 1583.19 feet to a found 1/2 inch Steel Rebar by a wood Fence corner Post for the northwest corner of said Morgan 303.943 acre tract;

Thence: North 89 degrees 11 minutes 45 seconds East, with the north line of said Morgan 303.943acre tract, a distance of 1378.61 feet to a found 1/2 inch Steel Rebar by a wood fence corner post for a corner;

Thence: North 89 degrees 04 minutes 46 seconds East, with the north line of said Morgan 303.943 tract, a distance of 3678.41 feet to a found 3/4 inch Steel Rod for th3e northeast corner of said Morgan 303.943 acre tract, and in Scharff Road.

Thence: South 01 degrees 16 minutes 42 seconds East, with the east line of said Morgan 303.943 tract, and in said road, a distance of 2982.52 feet to the POINT OF BEGINNING and containing 347.744 acres of land.

SECTION 4.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 4.04. This article takes effect September 1, 2007.

ARTICLE 5. KING'S CROSSING MUNICIPAL
UTILITY DISTRICT OF GRAYSON COUNTY

SECTION 5.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8251 to read as follows:

CHAPTER 8251. KING'S CROSSING MUNICIPAL UTILITY DISTRICT OF
GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8251.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the King's Crossing Municipal Utility District of Grayson County.

Sec. 8251.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8251.003. FINDING OF PUBLIC USE AND BENEFIT. The district is created to serve a public use and benefit.

Sec. 8251.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8251.024 before September 1, 2009:

(1) the district shall, as soon as it reasonably knows the district will not be confirmed and before September 1, 2009:

(A) pay any debts incurred; and

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

(2) the district is dissolved September 1, 2009; and

(3) this chapter expires September 1, 2009.

Sec. 8251.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 5.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 5.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes; or

(3) the legality or operation of the board.

[Sections 8251.006-8251.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8251.021. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Hill Johnson;

(2) Joe Henneburger;

(3) Bill Casanova;

(4) Adrian Butler; and

(5) Kevin Eddy.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Commission on Environmental Quality shall appoint the necessary number of persons to fill all vacancies on the board.

(c) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8251.024; or

(2) the date this chapter expires under Section 8251.004.

Sec. 8251.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the organizational meeting shall be at the Grayson County Courthouse.

Sec. 8251.023. DEVELOPMENT AGREEMENT REQUIRED. The temporary directors may not hold an election under Section 8251.024 or approve the issuance of bonds until a district landowner enters into a development agreement regarding district land with the City of Howe.

Sec. 8251.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8251.025. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8251.024 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.

Sec. 8251.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2009.

[Sections 8251.027-8251.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8251.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8251.052-8251.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8251.101. 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. 8251.102. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or improvements in aid of those roads, inside or outside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is not located

in the corporate limits or extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each county in which the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by resolution. If the district is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by resolution.

Sec. 8251.103. ROAD CONTRACTS. The district may contract for a road project in the manner provided by Subchapter I, Chapter 49, Water Code.

Sec. 8251.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY OUTSIDE CORPORATE LIMITS OF MUNICIPALITY. If district territory, or a portion of district territory, is located outside the corporate limits of a municipality, the district shall:

(1) maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located; and

(2) pay for the cost of performing the district's duties under Subdivision (1).

[Sections 8251.105-8251.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8251.151. OPERATION AND MAINTENANCE TAX. The district may impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107, Water Code.

Sec. 8251.152. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of and interest on bonds issued under Section 8251.201.

Sec. 8251.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND 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;

(4) a cable operator as defined by 47 U.S.C. Section 522; or

(5) a person who provides to the public advanced telecommunications

services.

[Sections 8251.154-8251.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8251.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance the construction, maintenance, or operation of projects under Section 8251.102.

(b) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money.

(c) The district may not issue bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8251.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8251.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 5.02. The King's Crossing Municipal Utility District of Grayson County initially includes all the territory contained in the following described area:

TRACT 1

BEING a tract of land situated in the J. ARMENDARIS SURVEY, ABSTRACT NO. 39, the J. MARSHALL SURVEY, ABSTRACT NO. 868, the C. MASON SURVEY, ABSTRACT NO. 859 and the E. REYNOLDS SURVEY, ABSTRACT NO. 1008, in Grayson County, Texas, and being all of a called 146 acre tract of land described in a deed to W. C. King recorded in Volume 464, Page 531 of the Deed Records of Grayson County, Texas, part of a called 273.2255 acre tract described in a deed to W. C. King recorded in Volume 418, Page 320 of said Deed Records, (both of said King tracts being subsequently conveyed in part to Joe C. King, Nancy Jane Yarborough and the Mary Ann Arterbury Revocable Trust by deeds recorded in Volume 2182, Page 950, Volume 2192, Page 234, Volume 2249, Page 895, and Volume 3259, Page 266, all of said Deed Records), all of a called 60.2 acre tract of land described as Tract One in a deed to Nancy McElreath King recorded in Volume 953, Page 307 of said Deed Records, all of a called 12.5 acre tract of land described as Tract Two in said deed, and all of a called 40 acre tract of land described as Tract Three in said deed, and being more particularly described as follows:

BEGINNING at a railroad spike found at the intersection of the center of Farmington Road (undedicated public road) with the center of Hall Cemetery Road (undedicated public road), said point being the southwest corner of said 60.2 acre tract;

THENCE North 00 degrees 57 minutes 32 seconds West, along the approximate center of Farmington Road, and along the west lines of said 60.2 acre tract and said 146 acre tract, a distance of 2577.20 feet to a 1-inch iron pipe found for the most westerly northwest corner of said 146 acre tract and the south corner of a called 34 acre tract of land described in a deed to the Burks Family Trusts recorded in Volume 3128, Page 820 of said Deed Records;

THENCE North 34 degrees 38 minutes 57 seconds East, along the common line between said 34 acre tract and said 146 acre tract, a distance of 2574.44 feet to a 1-inch iron pipe found at an angle point in the approximate center of Davis Road (undedicated public road) for the east corner of said 34 acre tract and the most southerly southeast corner of a called 123.8843 acre tract of land described in a deed to C. J. Matthews and wife Dorothy Matthews recorded in Volume 1180, Page 590 of said Deed Records;

THENCE North 33 degrees 34 minutes 50 seconds East, along the common line between said 146 acre tract and said 123.8843 acre tract, and along the approximate center of Davis Road, a distance of 989.01 feet to a 1-inch iron pipe found at an angle point in said road for most northerly northwest corner of said 146 acre tract;

THENCE South 89 degrees 56 minutes 45 seconds East, along the approximate center of Davis Road and the north lines of said 146 acre tract and said 273.2255 acre tract, a distance of 3122.85 feet to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for corner;

THENCE South 00 degrees 55 minutes 04 seconds East, along the prolongation of and the west lines of a called 0.923 acre tract described in a deed to Joe C. King and wife Katie Mae King recorded in Volume 1518, Page 747 of said Deed Records, a called 3.086 acre tract of land described in a deed to Joe C. King and wife Katie Mae King recorded in Volume 1331, Page 150, a tract of land described in a deed to Joe C. King recorded in Volume 1293, Page 77 of said Deed Records, a distance of 3195.54 feet to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for a point of the north line of Western Hills, an addition to the City of Howe according to the plat thereof recorded in Volume 3, Page 76 of the Map Records of Grayson County, Texas.

THENCE South 89 degrees 24 minutes 28 seconds West, along the north line of Western Hills, and addition to the City of Howe, a distance of 1.52 feet to the northwest corner of said Western Hills to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for corner;

THENCE South 00 degrees 48 minutes 45 seconds East, departing the northwest corner of said Western Hills, and along the most southerly east line of said 273.2255 acre tract, a distance of 410.53 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set for the most southerly southeast corner of said 273.2255 acre tract and the northeast corner of a called 111.5 acre tract described in a deed to Robert Glen Sollis, Jr., recorded in Volume 2352, Page 222 of said Deed Records;

THENCE North 89 degrees 21 minutes 25 seconds West, along the common line between said 273.2255 acre tract and said 111.5 acre tract, a distance of 2591.12 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set for the northwest corner of said 111.5 acre tract and the northeast corner of said 40 acre tract;

THENCE South 00 degrees 48 minutes 45 seconds East, along the common line between said 111.5 acre tract and said 40 acre tract, a distance of 1904.72 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set in the approximate center of Hall Cemetery Road for the southeast corner of said 40 acre tract;

THENCE South 89 degrees 13 minutes 54 seconds West, along the approximate center of Hall Cemetery Road and the south lines of said 40 acre tract, said 12.5 acre tract and said 60.2 acre tract, a distance of 2582.24 feet to the POINT OF BEGINNING and containing 470.470 acres of land, more or less.

TRACT 2

BEING A TRACT OF LAND SITUATED IN THE J. ARMENDARIS SURVEY, ABSTRACT NO. 39, THE J. MARSHALL SURVEY, ABSTRACT NO. 825, AND THE E. REYNOLDS SURVEY, ABSTRACT NO. 1008, IN GRAYSON COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 57.898 ACRE TRACT DESCRIBED IN A DEED TO JOE CLYDE KING RECORDED IN VOLUME 3693, PAGE 147 OF THE DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A NAIL FOUND IN THE APPROXIMATE CENTER OF DAVIS ROAD (UNDEDICATED PUBLIC ROAD) FOR THE NORTHEAST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHWEST CORNER OF A CALLED

29.732 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO JERRY L. KING AND DONNA KING BEDGOOD RECORDED IN VOLUME 2001, PAGE 107 OF SAID DEED RECORDS;

THENCE ALONG THE COMMON LINE BETWEEN SAID 29.732 ACRE TRACT AND SAID 57.898 ACRE TRACT AS FOLLOWS:

SOUTH 26 DEGREES 30 MINUTES 31 SECONDS EAST, A DISTANCE OF 274.02 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER;

SOUTH 22 DEGREES 04 MINUTES 49 SECONDS EAST, A DISTANCE OF 371.90 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER;

SOUTH 64 DEGREES 31 MINUTES 10 SECONDS EAST, A DISTANCE OF 174.55 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR THE MOST EASTERLY NORTHEAST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHWEST CORNER OF WESTERN HILLS COMMERCIAL, AN ADDITION TO THE CITY OF HOWE ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3, PAGE 79 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS;

THENCE SOUTH 00 DEGREES 54 MINUTES 15 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID 57.898 ACRE TRACT AND THE WEST LINE OF SAID WESTERN HILLS COMMERCIAL, A DISTANCE OF 360.57 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER FROM WHICH A 1/2-INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID WESTERN HILLS COMMERCIAL BEARS SOUTH 00 DEGREES 54 MINUTES 15 SECONDS EAST, A DISTANCE OF 305.41 FEET;

THENCE SOUTH 89 DEGREES 31 MINUTES 09 SECONDS WEST, DEPARTING SAID EASTERLY AND WEST LINES AND OVER AND ACROSS SAID 57.898 ACRE TRACT, A DISTANCE OF 905.24 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET IN THE WEST LINE OF SAID 57.898 ACRE TRACT SAME BEING THE EAST LINE OF A TRACT OF LAND DESCRIBED IN A DEED TO AP HOWE LIMITED PARTNERSHIP FILED IN VOLUME 3814, PAGE 898, OF SAID DEED RECORDS;

THENCE NORTH 00 DEGREES 55 MINUTES 04 SECONDS WEST, ALONG SAID EAST AND WEST LINES, A DISTANCE OF 1030.55 FEET TO A NAIL FOUND IN THE APPROXIMATE CENTER OF SAID DAVIS ROAD FOR THE NORTHWEST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHEAST CORNER OF SAID AP HOWE LIMITED PARTNERSHIP TRACT;

THENCE SOUTH 89 DEGREES 56 MINUTES 50 SECONDS EAST, ALONG THE NORTH LINE OF SAID 57.898 ACRE TRACT AND THE APPROXIMATE CENTER OF SAID DAVIS ROAD, A DISTANCE OF 160.56 FEET TO A RAILROAD SPIKE FOUND FOR AN ANGLE POINT;

THENCE NORTH 89 DEGREES 31 MINUTES 33 SECONDS EAST, CONTINUING ALONG SAID NORTH LINE AND THE APPROXIMATE CENTER OF SAID DAVIS ROAD, A DISTANCE OF 335.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 762,300 SQUARE FEET, OR 17.500 ACRES OF LAND, MORE OR LESS.

SECTION 5.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 5.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 6. PLATINUM RANCH MUNICIPAL
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 6.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8256 to read as follows:

CHAPTER 8256. PLATINUM RANCH MUNICIPAL UTILITY DISTRICT NO. 1
OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8256.001. 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 Platinum Ranch Municipal Utility District No. 1 of Grayson County.

Sec. 8256.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8256.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8256.055 before September 1, 2009:

(1) the district is dissolved September 1, 2009, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Grayson 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, 2014.

Sec. 8256.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 6.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 6.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or other indebtedness; or
- (4) the legality or operation of the district or the board.

Sec. 8256.005. ANNEXATION INTO CITY OF GUNTER. (a) Notwithstanding any other law, if all of the territory of the district is annexed by the City of Gunter into the corporate limits of that municipality before the date of the election held to confirm the creation of the district, the district is not dissolved and shall continue in full force and effect.

(b) Any future annexation or inclusion of additional territory into a district governed by this chapter may not occur unless the City of Gunter is allowed to voluntarily annex the same territory into the municipality's corporate limits.

Sec. 8256.006. DISSOLUTION. Section 43.074, Local Government Code, applies to the dissolution of the district.

[Sections 8256.007-8256.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8256.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8256.053, directors serve staggered four-year terms.

Sec. 8256.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8256.053. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) Mark McClure;
- (2) Greg Meador;
- (3) Lance Hancock;
- (4) David Howell; and
- (5) Mark Smith.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2008, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2010.

(c) This section expires September 1, 2011.

Sec. 8256.054. INCORPORATION OF DISTRICT TERRITORY INTO MUNICIPALITY REQUIRED. The directors may not hold an election under Section 8256.055 until all of the territory of the district is included in the corporate limits of the City of Gunter.

Sec. 8256.055. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The initial directors shall hold an election to confirm the creation of the district.

[Sections 8256.056-8256.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8256.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

(a) 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.

(b) Notwithstanding Subsection (a), the district may not act as a retail provider of water or wastewater service.

(c) The district shall make the district's water and wastewater facilities available to an entity holding the applicable certificate of convenience and necessity.

Sec. 8256.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulatory ordinances of the municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) If a portion of the territory of the district is excluded from the corporate limits of the City of Gunter, the district shall:

(1) improve, maintain, repair, and operate the roads located in that portion of territory in accordance with the ordinances and rules of the political subdivision possessing jurisdiction over the roads in that portion of territory; and

(2) pay the entire cost of performing the district's duties under Subdivision

(1).

Sec. 8256.103. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) each new district is within the corporate limits of the City of Gunter.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) At the time of creation, any new district created by the division of the district may not contain any land outside the area described by Section 6.02 of the article creating this chapter.

[Sections 8256.104-8256.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8256.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8256.201.

[Sections 8256.152-8256.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8256.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8256.101 or 8256.102.

(b) The district may not issue bonds to finance projects authorized by Section 8256.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8256.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 6.02. The Platinum Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the William Richards Survey, Abstract Number 998, the Robert Mason Survey, Abstract Number 784, the J.R. Worrall Survey, Abstract Number 1357, and the William Wells Survey, Abstract Number 1354, County of Grayson, State of Texas and being all that called 339.24 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16 February 2001 and recorded in Volume 3033 Page 185 of the Deed Records of the County of Grayson, State of Texas, and being all that called 300.264 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16 February 2001 and recorded in Volume 3033 Page 189 of said Deed Records, and being all that called 100.00 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 01 March 2001 and recorded in Volume 3038 Page 100 of said Deed Records, and being all that called 851.808 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16 May 2001 and recorded in Volume 3072 Page 217 of said Deed Records, and being all that called 78.427 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 23 May 2002 and recorded in Volume 3253 Page 743 of said Deed Records, and being more fully described as follows:

BEGINNING for the Southeast corner of the tract being described herein at a found 1½ inch iron rod at the intersection of Old Scaggs School Road and Merilee Roads for the Southeast corner of said 851.808 acre tract, said rod being on the South line of said Mason Survey;

Thence: South 89 degrees 57 minutes 55 seconds West, with the South line of said 851.808 acre tract and said Mason Survey, along the centerline of said Marilee Road, a distance of 3186.43 feet to a found 1½ inch iron rod for the Southwest corner of said 851.808 acre tract and the Southeast corner of said 329.424 acre tract;

Thence: North 89 degrees 22 minutes 52 seconds West, with the South line of said 329.424 acre tract, continuing along the centerline of said road, and passing at 4174.77 feet the Southwest corner of said 329.424 acre tract and the Southeast corner of said 100.00 acre tract, and continuing along said course, a total distance of 5198.85 feet to a found 1½ inch steel square tube for corner at the intersection of said Marilee Road and County Road Number 10;

Thence: North 88 degrees 59 minutes 54 seconds West, continuing with the South line of said 100.00 acre tract, along the centerline of said Marilee Road, a distance of 244.55 feet to a found 1½ inch steel square tube at the intersection of said Marilee Road and Blame Road for the Southwest corner of said 100.00 acre tract;

Thence: North 00 degrees 07 minutes 57 seconds West, with the West line of said 100.00 acre tract, along the centerline of said Blaine Road, and passing at 3425.72 feet the Northwest corner of said 100.00 acre tract and the Southwest corner of said 300.264 acre tract, and continuing along said course and road, and passing at 5630.58 feet the Northwest corner of said 300.264 acre tract and the Southwest corner of said 78.427 acre tract, and continuing along said course and road, a total distance of 7236.34 feet to a found 1½ inch steel square tube at the intersection of said Blaine Road and Jaresh Road for the Northwest corner of said 78.427 acre tract;

Thence: North 88 degrees 26 minutes 13 seconds East, with the North line of said 78.427 acre tract, along the centerline of said Jaresh Road, a distance of 2076.20 feet to a found 1½ inch iron rod for the Northeast corner of said 78.427 acre tract;

Thence: South 01 degrees 09 minutes 52 seconds East, with the East line of said 78.427 acre tract, and passing at 14.0 feet a cross-tie fence corner post on the South side of said Jaresh Road, and continuing along said course, along and near a fence, a total distance of 1662.51 feet to a found 1½ inch steel square tube for the Southeast corner of said 78.427 acre tract, said tubing being on the North line of said 300.264 acre tract, said tubing also being the Southwest corner of a called 252.043 tract of land as described in Deed to Ronald Evans Box, et ux Nita Gay Box, filed 15 December 1992 and recorded in Volume 2246 Page 173 of said Deed Records;

Thence: North 89 degrees 32 minutes 42 seconds East, with the North line of said 300.264 acre tract and the South line of said Box tract, with a fence, a distance of 1771.60 feet to a bois d' arc post for corner;

Thence: North 89 degrees 04 minutes 11 seconds East, continuing with the North line of said 300.264 acre tract and the South line of said Box tract, with a fence, a distance of 1940.19 feet to a cross-tie fence corner post for an ell corner of this tract, said corner also being the Southeast corner of said Box tract;

Thence: North 00 degrees 40 minutes 31 seconds West, with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1208.96 feet to a wood fence corner post for an ell corner of this tract and a Northeast corner of said Box tract;

Thence: South 87 degrees 48 minutes 54 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1749.62 feet to a pipe fence corner post for corner;

Thence: North 01 degrees 29 minutes 27 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1664.74 feet to a pipe fence corner post for corner;

Thence: North 87 degrees 51 minutes 31 seconds East, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, 849.86 feet to a pipe fence corner post for corner;

Thence: North 01 degrees 26 minutes 50 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1216.06 feet to a pipe fence corner post for the Northwest corner of said

851.808 acre tract, said post also being the Southwest corner of a called 374.17 acre tract of land as described in Deed to Martinek Grain & Bins, Inc., filed 01 June 1993 and recorded in Volume 2272 Page 912 of said Deed Records;

Thence: North 87 degrees 58 minutes 36 seconds East, with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with the general course of a fence, a distance of 973.27 feet to a wood post for corner;

Thence: North 87 degrees 53 minutes 22 seconds East, continuing with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with said fence, a distance of 1091.88 feet to a wood fence corner post for corner;

Thence: North 89 degrees 57 minutes 15 seconds East, continuing with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with said fence, a distance of 1491.72 feet to a cross-tie fence corner post for the Northeast corner of said 851.808 acre tract, said post also being the most Westerly Northwest corner of a called 178.842 acre tract of land as described in Deed to Martinek Grain & Bins, Inc., dated 03 August 1994 and recorded in Volume 2352 Page 18 of said Deed Records;

Thence: South 02 degrees 33 minutes 15 seconds East, with the East line of said 851.808 acre tract, along and near a fence, a distance of 960.89 feet to a found 1½ inch iron rod for a Southwest corner of said 178.842 acre tract, said rod also being the Northwest corner of a called 112.268 acre tract of land as described in Deed to Marion Cole, et ux Linda Cole, dated 27 May 1999 and recorded in Volume 2796 Page 848 of said Deed Records;

Thence: South 02 degrees 57 minutes 08 seconds East, continuing with the East line of said 851.808 acre tract and the West line of said Cole tract, along and near a fence, a distance of 1552.77 feet to a found 1½ inch iron rod for the Southwest corner of said Cole tract;

Thence: South 89 degrees 54 minutes 04 seconds East, continuing with the East line of said 851.808 acre tract and the South line of said Cole tract, along and near a fence, and passing a cross-tie fence corner post on the West side of Old Skaggs School Road, and continuing along said course, a distance of 3118.80 feet to a set 1½ inch steel square tube with a plastic cap marked COX 4577 in the centerline of said Old Skaggs School Road for the Southeast corner of said Cole tract;

Thence: South 00 degrees 04 minutes 13 seconds East, continuing with the East line of said 851.808 acre tract, along the center of said Old Skaggs School Road, a distance of 1561.21 feet to a found 1½ inch iron rod for corner, said road making a turn to the West at this corner;

Thence: North 89 degrees 46 minutes 04 seconds West, continuing with the East line of said 851.808 acre tract, along the center of said Old Skaggs School Road, a distance of 3072.50 feet to a found nail for corner, said nail being at a turn of said Old Skaggs School Road;

Thence: South 00 degrees 51 minutes 03 seconds East, continuing with the East line of said 851.808 acre tract, along the center of said Old Skaggs School Road, a distance of 5800.26 feet to the POINT OF BEGINNING and containing 1659.998 acres of land.

SECTION 6.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 6.04. This article takes effect September 1, 2007.

ARTICLE 7. SANGANI RANCH MUNICIPAL
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 7.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8258 to read as follows:

CHAPTER 8258. SANGANI RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF
GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8258.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Sangani Ranch Municipal Utility District No. 1 of Grayson County.

Sec. 8258.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8258.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8258.023 before September 1, 2009:

(1) the district is dissolved September 1, 2009, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Grayson 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, 2012.

Sec. 8258.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 7.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 7.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8258.005-8258.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8258.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

- (1) the date directors are elected under Section 8258.023; or
- (2) the date this chapter expires under Section 8258.003.

Sec. 8258.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8258.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 7.02 of the article creating this chapter.

Sec. 8258.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8258.023 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.

Sec. 8258.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8258.026-8258.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8258.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8258.052-8258.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8258.101. 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. 8258.102. WATER AND WASTEWATER FACILITIES AND SERVICES.

(a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8258.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8258.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8258.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 7.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8258.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8258.107-8258.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8258.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8258.201.

[Sections 8258.152-8258.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8258.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8258.101 or 8258.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8258.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8258.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 7.02. The Sangani Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

Tract 1

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being part of a called Tract No. 3 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows:

Beginning at a 1/2" iron rod found in the south line of said Tract No. 3 and in the east right-of-way line of State Highway 289 and also in an asphalt road under apparent public use posted as Mackey Road;

Thence North 00 Degrees 32 Minutes 59 Seconds West with the said east monumented right-of-way line and generally with a fence line, a distance of 114.58 feet to a right-of-way monument found for corner;

Thence North 45 Degrees 35 Minutes 10 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 180.50 feet to a right-of-way monument found for corner;

Thence North 40 Degrees 07 Minutes 07 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 329.14 feet to a 1/2" capped iron rod set for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 1391.07 feet to a 1/2" capped iron rod set for corner;

Thence North 51 Degrees 15 Minutes 05 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 494.20 feet to a concrete monument for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 131.23 feet to a 1/2" capped iron rod set for corner;

Thence North 42 Degrees 32 Minutes 58 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 3 15.33 feet to a concrete monument for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 98.43 feet to a 1/2" capped iron rod set for corner;

Thence North 40 Degrees 15 Minutes 20 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 354.85 feet to a 1/2" capped iron rod set for the north corner of said Tract No. 3 and at the northwest corner of a called 26.14 acre tract of land described in a deed to Penny S. Avery as recorded in Volume 2670, Page 802, Deed Records of Grayson County, Texas;

Thence South 01 Degrees 16 Minutes 21 Seconds East with the east line of said Tract No. 3 and with the west line of said 26.14 acre tract and also with or near a fence line, passing a 1/2" iron rod found at 2400.96 feet and continuing along said coarse for a total distance of 2425.74 feet to a 60 D nail found at the southeast corner of said Tract No. 3 and at the southwest corner of said 26.14 acre tract and also in said asphalt road; Thence South 89 Degrees 39 Minutes 37 Seconds West with the south line of said Tract No. 3 and along said asphalt road, a distance of 2379.51 feet to the POINT OF BEGINNING and containing in total 69.234 acres of land and in the occupied road way and a total of 1.413 acres of land.

Tract 2

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being part of a called Tract No. 2 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows:

Beginning at a 1/2" capped iron rod set at the southwest corner of said Tract No. 2 and in an asphalt road under apparent public use posted as Fallow Road and also in the west line of said Hartfield Survey;

Thence North 00 Degrees 57 Minutes 46 Seconds East with the west line of said Tract No. 2 and along said asphalt road most of the way and also with the said west line, a distance of 1786.81 feet to a 1/2" capped iron rod set for corner in the southeast right-of-way line of S.C. & S.F. RAILROAD;

Thence North 12 Degrees 29 Minutes 16 Seconds East with the west line of said Tract No. 2 and with the said southeast right-of-way line, a distance of 1260.61 feet to a 1/2" capped iron rod set for corner at the start of a curve to the right having a radius of 3699.71 feet;

Thence with said curve to the right and with the said west line and also with the said southeast right-of-way line an arc length of 991.94 feet and said curve having a chord bearing of North 20 Degrees 16 Minutes 14 Seconds East, a distance of 988.97 feet to a 1/2" capped iron rod set for corner at the start of a curve to the right having a radius of 3772.73 feet;

Thence with said curve to the right and with the said west line and also with the said southeast right-of-way line an arc length 1350.21 feet and said curve having a chord bearing of North 38 Degrees 02 Minutes 43 Seconds East, a distance of 1343.02 feet to a 60 D nail found at the northwest corner of said Tract No. 2 and in an asphalt road under apparent public use posted as Savage Road;

Thence South 89 Degrees 33 Minutes 30 Seconds East with the north line of said Tract No. 2 and along said asphalt road, a distance of 969.10 feet to a 60 D nail found for corner;

Thence South 89 Degrees 58 Minutes 51 Seconds East with the said north line and along said asphalt road, a distance of 2702.37 feet to a point for the northeast corner of said Tract No. 2 and in the west right-of-way line of State Highway 289;

Thence South 00 Degrees 40 Minutes 28 Seconds West with the said west monumented right-of-way line, a distance of 198.93 feet to a 1/2" iron rod found in concrete for corner;

Thence South 45 Degrees 35 Minutes 18 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 967.85 feet to a brass capped monument found for corner;

Thence South 51 Degrees 18 Minutes 23 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.83 feet to a brass capped monument found for corner;

Thence South 45 Degrees 49 Minutes 03 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 97.35 feet to a brass capped monument found for corner;

Thence South 39 Degrees 52 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.65 feet to a brass capped monument found for corner;

Thence South 45 Degrees 35 Minutes 18 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 1205.10 feet to a brass capped monument found for corner;

Thence South 51 Degrees 19 Minutes 11 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 329.75 feet to a brass capped monument found for corner;

Thence South 45 Degrees 28 Minutes 36 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 98.33 feet to a brass capped monument found for corner;

Thence South 48 Degrees 35 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 315.45 feet to a brass capped monument found for corner;

Thence South 45 Degrees 56 Minutes 27 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 130.31 feet to a brass capped monument found for corner;

Thence South 39 Degrees 47 Minutes 37 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 495.56 feet to a brass capped monument found for corner;

Thence South 45 Degrees 35 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 1226.52 feet to a concrete monument found for corner;

Thence South 51 Degrees 18 Minutes 15 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.51 feet to a concrete monument found for corner;

Thence South 46 Degrees 15 Minutes 32 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 97.79 feet to a concrete monument found for corner;

Thence South 37 Degrees 09 Minutes 28 Seconds West with the said west right-of-way line, a distance of 409.29 feet to a 1/2" capped iron rod set at the southeast corner of said Tract No. 2;

Thence South 89 Degrees 39 Minutes 37 Seconds West with the south line of said Tract No. 2, a distance of 261.85 feet to the POINT OF BEGINNING and containing in total 278.933 acres of land and in the occupied in roadway and a total of 6.477 acres of land.

Tract 3

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being all of a called Tract No. 1 and all of a called Tract No. 4 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows: Beginning at a 1/2" capped iron rod set at the northwest corner of said Tract No. 1 and at the northwest corner of said Hartfield Survey and also in an asphalt road under apparent public use posted as Fallow Road;

Thence South 89 Degrees 33 Minutes 30 Seconds East with the north line of said Tract No. 1 and with the north line of said Hartfield Survey, a distance of 1212.54 feet to a 60 D nail found for the northeast corner of said Tract No. 4 and in an asphalt road under apparent public use posted as Savage Road and in the northwest right-of-way line of S.C. & S.F. RAILROAD and also in a curve to the left having a radius of 3872.73 feet;

Thence with said curve to the left and with the said northwest right-of-way line an arc length of 1276.90 feet and said curve having a chord bearing of South 37 Degrees 14 Minutes 32 Seconds West, a distance of 1271.12 feet to a 1/2" capped iron rod set for corner at the start of a curve to the left having a radius of 3799.71 feet;

Thence with said curve to the left and with said northwest line an arc length of 1018.75 feet and said curve having a chord bearing of South 20 Degrees 16 Minutes 14 Seconds West, a distance of 1015.70 feet to a 1/2" capped iron rod set for corner;

Thence South 12 Degrees 29 Minutes 16 Seconds West with the said northwest right-of-way line, a distance of 771.10 feet to a 60 D nail set for the south corner of said Tract No. 1 and in said Fallow Road and also in the west line of said Hartfield Survey;

Thence North 00 Degrees 57 Minutes 32 Seconds East with the west line of said Tract No. 1 and with the said west line and also with said Fallow Road, a distance of 1721.54 feet to a 60 D nail set for corner;

Thence North 01 Degrees 57 Minutes 45 Seconds East with the west line of said Tract No. 1 and with the said west line and also with said Fallow Road, a distance of 866.75 feet to a 60 D nail set for corner;

Thence North 06 Degrees 54 Minutes 43 Seconds East with the west line of said Tract No. 1, a distance of 140.40 feet to the POINT OF BEGINNING and containing in total 26.861 acres of land and in an occupied road way and a total of 2.173 acres of land.

SECTION 7.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 7.04. This article takes effect September 1, 2007.

ARTICLE 8. FOUR SEASONS RANCH MUNICIPAL
UTILITY DISTRICT NO. 1 OF DENTON COUNTY

SECTION 8.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8208 to read as follows:

CHAPTER 8208. FOUR SEASONS RANCH MUNICIPAL UTILITY DISTRICT
NO. 1 OF DENTON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8208.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Four Seasons Ranch Municipal Utility District No.

1 of Denton County.

Sec. 8208.002. NATURE OF DISTRICT. The district is a municipal utility district in Denton County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8208.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8208.024 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 Denton 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. 8208.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 9.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 9.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or other indebtedness; or

(4) the legality or operation of the board.

[Sections 8208.005-8208.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8208.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8208.024; or

(2) the date this subchapter expires under Section 8208.026.

Sec. 8208.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8208.023. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8208.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, if any, has adopted a resolution consenting to the creation of the district.

Sec. 8208.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8208.025. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8208.024 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.

Sec. 8208.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8208.027-8208.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8208.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8208.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8208.053-8208.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8208.101. 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. 8208.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads, or improvements in aid of those roads, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution.

(d) The district shall, at its sole cost and expense, maintain, improve, operate, and repair all roads constructed or acquired by the district unless the municipality or county in which a road is located voluntarily assumes the obligation. An assumption of an obligation under this subsection is not valid or binding unless the assumption is in writing, executed by the necessary parties, and filed in the land records of the county in which the road is located.

Sec. 8208.103. COMPLIANCE WITH MUNICIPAL ORDINANCES OR RESOLUTIONS. The district shall comply with all applicable requirements of any ordinance or resolution adopted by the governing body of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8208.104. ANNEXATION OF LAND IN GRAYSON COUNTY. The district may not annex land located in Grayson County without the prior consent of the Commissioners Court of Grayson County.

Sec. 8208.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) A new district, at the time it is created by the division of the district, may not contain land outside the area described by Section 9.02 of the article creating this chapter.

[Sections 8208.106-8208.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8208.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of and interest on bonds issued under Section 8208.201.

[Sections 8208.152-8208.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8208.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance the construction, maintenance, or operation of projects under Sections 8208.101 and 8208.102.

(b) The district may not issue bonds to finance projects authorized by Section 8208.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8208.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 8.02. The Four Seasons Ranch Municipal Utility District No. 1 of Denton County initially includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the Juana Curbello Survey, Abstract Number 213, and the A. H. Gee Survey, Abstract Number 1522, County of Denton, State of Texas, said tract being all of a Tract, as described in deed to Sadot Venture, LTD , filed 03 December 2003, and recorded in clerk number 2003-195563, and being all of a tract as described in deed to McKinney 17 Venture L.T.D., filed 28 May 2002, and recorded in volume 3257 page 22 of the Deed Records of the County of Grayson, State of Texas, and recorded in volume 5094 page 2020 of the Deed Records of the County of Denton, State of Texas, said tract being all of a Tract, as described in deed to Sadot Venture, LTD , filed 17 December 2003, and recorded in clerk number 2003-203006, and being all of a tract as described in deed to Netzer Environmental Consulting, filed 28 May 2002, and recorded in volume 5094 page 2014 of the Deed Records of the County of Denton, State of Texas and being more fully described as follows:

Beginning for the southwest corner of the tract being described herein at a found 1½ inch rebar at the intersection of Garell Road and Fritcher Road, said rebar being the southwest corner of said Brock South tract;

Thence: North 00 degrees 32 minutes 08 seconds West, with the west line of said Brock South tract, and with the center of said Garell Road, a distance of 2487.12 feet to a found 1½ inch rebar for an angle point in the west line of said Brock South tract, same being an angle point in said road;

Thence: North 00 degrees 01 minutes 19 seconds West, with the west line of said Brock South tract, and with the center of said road, a distance of 1439.64 feet to a found 1½ inch rebar for the northwest corner of said Brock South tract, same being a turn in said road;

Thence: North 86 degrees 29 minutes 35 seconds East, with the north line of said Brock South tract, and with the center of said road, a distance of 256.11 feet to a found 1½ inch rebar for an ell corner of this tract, and said rebar being the southwest corner of said Street tract, same being a turn in said road, said rebar also being an angle point in the north line of said Brock South tract;

Thence: North 02 degrees 34 seconds 12 seconds East, with the west line of said Netzer tract, and with the center of said road, a distance of 2019.60 feet to a point for an ell corner of this tract;

Thence: North 89 degrees 56 minutes 50 seconds East, a distance of 27.25 feet to a found 1½ inch steel rebar for a corner of this tract;

Thence: North 02 degrees 25 seconds 53 seconds East, with the west line of said Venture tract, and with the east side of said road, a distance of 1028.83 feet to a point for an ell corner of this tract;

Thence: North 89 degrees 53 minutes 08 seconds East, a distance of 521.59 feet to a found 1½ inch rebar;

Thence: North 00 degrees 00 minutes 32 seconds East, with the west line of said venture tract, a distance of 4225.1 feet to a found 1½ inch steel square tubing for the northwest corner of said Venture tract;

Thence: North 89 degrees 31 minutes 51 seconds East, with the north line of said Venture tract, a distance of 866.39 feet to a set 1½ inch steel square tubing for an ell corner of this tract;

Thence: South 00 degrees 06 minutes 09 seconds East, a distance of 18.01 feet to a set 1/2 inch steel square tubing for an ell corner of this tract;

Thence: North 89 degrees 45 minutes 28 seconds East, with the north line of said Brock North tract, and with the center of said road, a distance of 1130.35 feet for a corner of this tract;

Thence: South 00 degrees 07 minutes 51 seconds East, with the approximate location of the county line, a distance of 2818.67 feet for a corner of this tract;

Thence: North 89 degrees 45 minutes 28 seconds East, with the approximate location of the county line a distance of 2100.00 feet for a corner of this tract;

Thence: South 89 degrees 59 minutes 54 seconds East, a distance of 244.55 feet to a found 1/2 inch steel square tubing, said tubing being in the intersection of Merilee Road and County Road Number 10;

Thence: South 00 degrees 17 minutes 37 seconds East, with the center of said road, a distance of 1409.82 feet to a found 1/2 inch rebar;

Thence: South 00 degrees 18 minutes 38 seconds East, with the east line of said Street tract, and with the center of said road, and passing at 3031.32 feet the southeast corner of said Street tract, same being the northeast corner of said Brock South tract, and continuing on said course a total distance of 3071.37 feet to a found 1/2 inch rebar for an angle point in said road;

Thence: South 00 degrees 23 minutes 56 seconds East, with the east line of said Brock South tract, and with the center of said road, a distance of 1104.84 feet to a found 1/2 inch rebar for the most easterly southeast corner of said Brock South tract;

Thence: North 89 degrees 30 minutes 05 seconds West, a distance of 27.25 feet to a old wood fence corner post;

Thence: South 00 degrees 19 minutes 28 seconds East, with the east line of said road, a distance of 1292.99 feet to a pipe fence corner post for an ell corner of this tract;

Thence: North 89 degrees 31 minutes 21 seconds West, with the south line of said Venture tract, a distance of 3326.78 feet to a pipe fence corner post for an ell corner of said Venture South tract;

Thence: South 00 degrees 41 minutes 02 seconds East, a distance of 1534.63 feet to a found nail for the southeast corner of said Venture tract, said nail being in the center of Fritcher Road;

Thence: North 89 degrees 30 minutes 14 seconds West, with the south line of said Venture tract, and with the center of said road, a distance of 527.38 feet to a found 1/2 inch rebar for an ell corner of said Venture tract;

Thence: South 89 degrees 34 minutes 19 seconds West, with the south line of said Venture tract, and with the center of said road, a distance of 1437.85 feet to the POINT OF BEGINNING and containing 979.408 acres of land.

SECTION 8.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 8.04. This article takes effect September 1, 2007.

The amendment to **HB 4069** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4069 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4069 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4069** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2935 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2935** at this time on its second reading:

CSHB 2935, Relating to the regulation of cigarettes; providing a penalty.

The bill was read second time.

Senator West offered the following amendment to the bill:

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".

The amendment to **CSHB 2935** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator West offered the following amendment to the bill:

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.

The amendment to **CSHB 2935** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2935 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2935 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2935** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2072 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2072** at this time on its second reading:

HB 2072, Relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2072** (Senate committee printing) as follows:

(1) Between existing SECTIONS 2 and 3 of the bill (page 2 between lines 28 and 29), insert the following SECTION and renumber existing SECTION 3 as SECTION 4:

SECTION 3. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8805 to read as follows:

CHAPTER 8805. LA PALOMA GROUNDWATER
CONSERVATION DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8805.001. 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 La Paloma Groundwater Conservation District.

Sec. 8805.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Brooks County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8805.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before September 1, 2010:

- (1) the district is dissolved on September 1, 2010, except that:
 - (A) any debts incurred shall be paid;
 - (B) any assets that remain after the payment of debts shall be transferred to Brooks 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, 2011.

Sec. 8805.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 5 of the Act creating this chapter.

(b) The boundaries described in Section 5 of the Act creating this chapter form a closure. A mistake made in describing the district's boundaries in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

Sec. 8805.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8805.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

(b) Section 36.121, Water Code, does not apply to the district.

[Sections 8805.007-8805.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8805.021. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

- (1) Lavoyger Durham, representing commissioners precinct 1;
- (2) Felix Saenz, Jr., representing commissioners precinct 2;
- (3) Mauro Garcia, representing commissioners precinct 3;
- (4) Larry Boykin, representing commissioners precinct 4;

(5) David Grall, representing the district at large, place 1; and

(6) Jose U. Perez, representing the district at large, place 2.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors under Section 8805.024; or

(2) the date this chapter expires under Section 8805.003.

Sec. 8805.022. 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 temporary directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Brooks County Courthouse.

Sec. 8805.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and the imposition of a maintenance tax.

(b) Section 41.001(a), Election Code, does not apply to an election held as provided by this section.

(c) Except as provided by this section, an election under this section must be conducted as provided by Sections 36.017(b), (c), and (e)-(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 La Paloma Groundwater Conservation District and the levy of a maintenance tax at a rate not to exceed 3 cents for each \$100 of assessed valuation."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may call a subsequent confirmation election.

(f) The district may not impose a maintenance tax unless the tax is confirmed under this section.

Sec. 8805.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8805.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8805.025.

(b) The initial directors for commissioner precincts 2 and 4 and the initial place 1 at-large director serve terms expiring June 1 following the first regularly scheduled election of directors under Section 8805.025, and the initial directors for commissioners precincts 1 and 3 and the initial place 2 at-large director serve terms expiring June 1 following the second regularly scheduled election of directors.

Sec. 8805.025. 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 three directors to replace the initial directors who, under Section 8805.024(b), serve a term expiring June 1 following that election.

Sec. 8805.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 8805.027-8805.030 reserved for expansion]

SUBCHAPTER A-2. EXPANSION OF DISTRICT TERRITORY

Sec. 8805.031. EXPANSION OF DISTRICT TERRITORY REQUIRED. (a) Not later than September 1, 2011, the boundaries of the district shall be expanded to include at least 50 percent of the surface land area of at least one county adjacent to Brooks County.

(b) The addition of territory under this section may be accomplished by annexation in accordance with Chapter 36, Water Code, or by legislative enactment.

Sec. 8805.032. COMMISSION VERIFICATION; DISSOLUTION OF DISTRICT. (a) In this section, "commission" means the Texas Commission on Environmental Quality or its successor agency.

(b) After September 1, 2011, the commission shall determine whether the requirements of Section 8805.031(a) have been satisfied. If the commission determines that the requirements of that section have not been satisfied, the commission shall dissolve the district and distribute any remaining assets in accordance with the procedures provided by Sections 36.304-36.310, Water Code, regardless of whether the district satisfies the requirements for dissolution under Section 36.304(a) of that code.

Sec. 8805.033. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2013.

[Sections 8805.034-8805.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8805.051. DIRECTORS; TERMS. (a) The district is governed by a board of six directors.

(b) Except as otherwise provided by this chapter, directors serve staggered four-year terms, with three directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8805.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) Two directors 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 a 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) the number of the at-large position that the person seeks.

(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.

Sec. 8805.053. ELECTION DATE. The district shall hold an election to elect three directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8805.054. DIVISION OF MUNICIPAL CORPORATION. The provision of Section 36.059(b), Water Code, concerning the division of a municipal corporation among precincts does not apply to the district.

Sec. 8805.055. FEES OF OFFICE; REIMBURSEMENT. (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive fees of office for performing the duties of director.

(b) A director is entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district in accordance with Sections 36.060(b) and (c), Water Code.

[Sections 8805.056-8805.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8805.101. 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. 8805.102. CONTRACTS. The district may enter into a contract with any person for any purpose authorized by law.

Sec. 8805.103. EXEMPTIONS. (a) In this section:

(1) "Domestic use" means the use of groundwater by an individual or a household to support domestic activities, including the use of groundwater for drinking, washing, or culinary purposes; for irrigating a lawn or a family garden or orchard; for watering domestic animals; and for water recreation, including aquatic and wildlife enjoyment. Domestic use does not include the use of water to support an activity for which consideration is given or received or for which the product of the activity is sold. Domestic use does not include use by or for a public water system.

(2) "Livestock use" means the use of groundwater for the open-range watering of livestock, exotic livestock, game animals, or fur-bearing animals. For purposes of this definition, the terms "livestock" and "exotic livestock" have the meanings assigned by Sections 1.003 and 142.001, Agriculture Code, respectively, and the terms "game animal" and "fur-bearing animal" have the meanings assigned by Sections 63.001 and 71.001, Parks and Wildlife Code, respectively. Livestock use does not include use by or for a public water system.

(b) Section 36.117, Water Code, applies to the district.

(c) In addition to the exemptions provided by Section 36.117, Water Code, the district may not require a permit for or otherwise regulate a well used solely to provide water for domestic use or livestock use.

Sec. 8805.104. IMPACT OF TRANSFER. (a) If the district finds that a transfer of groundwater out of the district negatively impacts any of the considerations described by Section 36.122(f), Water Code, the district may impose additional requirements or limitations on the permit that are designed to minimize those impacts.

(b) Sections 36.122(c), (i), and (j), Water Code, do not apply to a requirement or limitation imposed under this section.

(c) The district may impose a fee or surcharge as an export fee. The rate restrictions under Section 36.122(e), Water Code, do not apply to a fee or surcharge imposed under this subsection.

[Sections 8805.105-8805.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8805.151. REVENUE. 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 an ad valorem tax through the levy of the maintenance tax authorized by Section 8805.023 at a rate not to exceed 3 cents on each \$100 of assessed valuation of taxable property; or

(2) solicit and accept grants from any private or public source.

(2) Between SECTIONS 3 and 4 of the bill (page 2, between lines 30 and 31) insert the following SECTIONS and renumber existing SECTION 4 as SECTION 8:

SECTION 5. The initial boundaries of La Paloma Groundwater Conservation District as created by this Act are coextensive with the boundaries of Brooks County, Texas, and include all real property in Brooks County save and except all of those portions of Brooks County that, as of the effective date of this Act, are located within the Kenedy County Groundwater Conservation District.

SECTION 6. The initial board of directors of La Paloma Groundwater Conservation District shall hold the first regularly scheduled election of directors of La Paloma Groundwater Conservation District under Section 8805.025, Special District Local Laws Code, as added by this Act, on the uniform election date in May in the first even-numbered year following the year in which the district's creation is confirmed under Section 8805.023, Special District Local Laws Code, as added by this Act.

SECTION 7. (a) The legal notice of the intention to introduce the sections of this Act that create La Paloma Groundwater Conservation District, setting forth the general substance of those sections, has been published as provided by law, and the notice and a copy of those sections 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 the sections of this Act described by Subsection (a) of this section to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to the creation of La Paloma Groundwater Conservation District by 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 the sections of this Act related to the creation of La Paloma Groundwater Conservation District are fulfilled and accomplished.

The amendment to **HB 2072** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2072 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2072 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2072** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 755 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 755** at this time on its second reading:

HB 755, Relating to disciplinary action taken against a person required to file a death certificate.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 755 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 755** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2093 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2093** at this time on its second reading:

CSHB 2093, Relating to the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2093** as follows:

On page 7 of the Senate committee report printing, strike lines 54 through 58 and insert subsections (c) and (d) to read as follows:

(c) Except as otherwise provided by subsection (d), the changes in law made by this Act relating to the amount or disposition of a fee collected by the Texas Department of Transportation in connection with a permit for an overweight or oversize vehicle apply only to a permit that is applied for on or after the effective date of this Act.

(d) The changes in law made by this Act relating to the amount or disposition of a fee collected by the Texas Department of Transportation do not apply to a permit for an overweight or oversize vehicle applied for in connection with the delivery of materials pursuant to a construction contract for a public infrastructure project let prior to the effective date of this Act. The amount or disposition of the fee for the permit is governed by the law in effect at the time the construction contract was let, and the former law is continued in effect for that purpose.

The amendment to **CSHB 2093** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2093 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2093 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2093** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 573 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 573** at this time on its second reading:

HB 573, Relating to providing street lights in a subdivision in the unincorporated area of certain counties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 573 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 573** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

HOUSE BILL 1314 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1314** at this time on its second reading:

CSHB 1314, Relating to the regulation and financing of water and sewer utility systems in certain counties; providing a civil penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE

HOUSE BILL 1314 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1314** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

HOUSE BILL 2909 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2909** at this time on its second reading:

CSHB 2909, Relating to the authority of the governing body of a taxing unit in connection with taxes on real property erroneously omitted from the appraisal roll or tax roll in a previous year.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2909 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2909** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 470 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 470** at this time on its second reading:

HB 470, Relating to the creation, operation, management, and programs of homestead preservation districts.

The bill was read second time.

Senator West offered the following amendment to the bill:

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 1.18 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.

The amendment to **HB 470** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 470 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3495 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3495** at this time on its second reading:

HB 3495, Relating to the contents of the notice of the meeting at which the governing body of a taxing unit will vote on a proposed ad valorem tax rate that will result in a tax revenue increase.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3495 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3495** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1680 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 1680** at this time on its second reading:

HB 1680, Relating to the required payment of taxes by property owners who appeal certain ad valorem tax determinations.

The motion prevailed.

Senator Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

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".

The amendment to **HB 1680** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Wentworth.

Senator Williams offered the following amendment to the bill:

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

The amendment to **HB 1680** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Wentworth.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1680 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Wentworth.

HOUSE BILL 1680 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1680** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 3485 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3485** at this time on its second reading:

HB 3485, Relating to career and technical education provided by school districts and certain postsecondary institutions.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3485 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3485** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 472 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 472** at this time on its second reading:

HB 472, Relating to the regulation of third-party administrators, including administrators with delegated duties in the workers' compensation system of this state; providing penalties.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Van de Putte offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 472** as follows:

(1) 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".

(2) Page 2, line 10, between "407" and "Labor", strike "or 407A".

(3) 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."

(4) Beginning on page 30, line 14, strike SECTIONS 3.06 through 3.13 (ending on page 34, line 6) in their entirety.

The amendment to **HB 472** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent: Ogden.

Senator Van de Putte offered the following amendment to the bill:

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.

The amendment to **HB 472** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 472 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Williams.

Absent: Ogden.

HOUSE BILL 472 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 472** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Williams.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2644 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2644** at this time on its second reading:

HB 2644, Relating to the requirements for a massage therapist license.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2644** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS appropriately:

SECTION ____. Section 455.151, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) Unless the person is exempt from the licensing requirement, a person may not represent that the person is a massage therapist, massage school, massage therapy instructor, or massage establishment unless the person holds an appropriate [a] license under this chapter.

(c) A person may not for compensation perform or offer to perform any service with a purported health benefit that involves physical contact with a client unless the person:

(1) holds an appropriate license issued under this chapter; or

(2) is licensed or authorized under other law to perform the service.

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by Subsection (c). The department may adopt rules governing a license issued under this subsection.

SECTION ____ . Section 455.155(c), Occupations Code, is amended to read as follows:

(c) A place of business is not required to hold a license under this chapter if:

(1) the place of business is owned by the federal government, the state, or a political subdivision of the state;

(2) at the place of business, a licensed massage therapist practices as a solo practitioner and:

(A) does not use a business name or assumed name; or

(B) uses a business name or an assumed name and provides the massage therapist's full legal name or license number in each advertisement and each time the business name or assumed name appears in writing;

(3) at the place of business, an acupuncturist, athletic trainer, chiropractor, cosmetologist, midwife, nurse, occupational therapist, perfusionist, physical therapist, physician, physician assistant, podiatrist, respiratory care practitioner, or surgical assistant licensed or certified in this state employs or contracts with a licensed massage therapist to provide massage therapy as part of the person's practice; or

(4) at the place of business, a person offers to perform or performs massage therapy:

(A) for not more than 72 hours in any six-month period; and

(B) as part of a public or charity event, the primary purpose of which is not to provide massage therapy. [~~The executive commissioner by rule shall provide for a fair and reasonable procedure to grant exemptions from the licensing requirements of this chapter. The rules must provide that a person is exempt if the person shows that the advertising or provision of massage therapy services is incidental to the person's primary enterprise.]~~

The amendment to **HB 2644** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2644** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS appropriately:

SECTION ____ . Section 455.104(a), Occupations Code, is amended to read as follows:

(a) The department, ~~or~~ its authorized representative, or a peace officer may enter the premises of an applicant for a license or a license holder at:

(1) reasonable times to conduct an inspection incidental to the issuance of a license; and

(2) other times that the department or peace officer considers necessary to ensure compliance with this chapter and the rules adopted under this chapter.

SECTION ____. Section 455.351, Occupations Code, is amended by amending Subsections (a) and (e) and adding Subsections (g), (h), and (i) to read as follows:

(a) The attorney general, a district or county attorney, a municipal attorney, or the department may institute an action for injunctive relief to restrain a violation by a person who:

(1) appears to be in violation of or threatening to violate this chapter or a rule adopted under this chapter; or

(2) is the owner or operator of ~~[operating]~~ an establishment that offers massage therapy or other massage services regulated by this chapter and is not licensed under this chapter.

(e) The attorney general, district and county attorney, municipal attorney, and the department may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(g) In an injunction issued under this section, a court may include reasonable requirements to prevent further violations of this chapter.

(h) Notwithstanding Section 22.004, Government Code:

(1) a person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order entered in a suit brought under this subchapter;

(2) not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter; and

(3) if an appeal is not taken by a party temporarily enjoined under this article, the parties are entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.

(i) In this section:

(1) "Operator" means a person who is supervising a massage establishment or massage school at the time a violation occurs or the establishment or school is inspected. If no person is supervising, then any employee, contractor, or agent of the owner who is present at the establishment or school is the operator.

(2) "Owner" includes a person:

(A) in whose name a certificate of occupancy has been issued for a massage establishment or massage school and any person having control over that person; or

(B) who operates a massage establishment or massage school under a lease, operating agreement, or other arrangement.

SECTION ____. Section 125.0015(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1) discharge of a firearm in a public place as prohibited by the Penal Code;

(2) reckless discharge of a firearm as prohibited by the Penal Code;

- (3) engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;
- (4) delivery, possession, manufacture, or use of a controlled substance in violation of Chapter 481, Health and Safety Code;
- (5) gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;
- (6) prostitution, promotion of prostitution, or aggravated promotion of prostitution as prohibited by the Penal Code;
- (7) compelling prostitution as prohibited by the Penal Code;
- (8) commercial manufacture, commercial distribution, or commercial exhibition of obscene material as prohibited by the Penal Code;
- (9) aggravated assault as described by Section 22.02, Penal Code;
- (10) sexual assault as described by Section 22.011, Penal Code;
- (11) aggravated sexual assault as described by Section 22.021, Penal Code;
- (12) robbery as described by Section 29.02, Penal Code;
- (13) aggravated robbery as described by Section 29.03, Penal Code;
- (14) unlawfully carrying a weapon as described by Section 46.02, Penal Code;
- (15) murder as described by Section 19.02, Penal Code; ~~[or]~~
- (16) capital murder as described by Section 19.03, Penal Code; or
- (17) massage therapy or other massage services in violation of Chapter 455,

Occupations Code.

SECTION _____. The change in law made by this Act to Section 455.351, Occupations Code, regarding a violation of Chapter 455, Occupations Code, or a rule adopted under that chapter, 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 governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

The amendment to **HB 2644** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2644** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS accordingly:

SECTION _____. Section 455.159, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) A massage school or massage therapy instructor may not, unless the school or instructor has permission from the department, require a student to complete a number of internship hours that is greater than a number equal to 20 percent of the classroom hours required for a license under Section 455.156.

SECTION _____. Chapter 455, Occupations Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. MASSAGE THERAPY ADVISORY COMMITTEE

Sec. 455.401. DEFINITION. In this subchapter, "committee" means the Massage Therapy Advisory Committee.

Sec. 455.402. COMMITTEE MEMBERSHIP. (a) The committee consists of nine members, appointed by the commissioner of state health services, who are license holders under this chapter.

(b) Appointments to the committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(c) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 455.403. DUTIES. (a) The committee:

(1) shall advise the department in administering this chapter;

(2) may review and comment on proposed rules and amendments to rules adopted under this chapter; and

(3) may study or investigate issues relevant to the committee's duties under this chapter.

(b) The committee must take into consideration the diversity of practice types within the profession in each action taken by the committee.

Sec. 455.404. MEMBERSHIP RESTRICTIONS. (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 interests.

(b) A person may not be a committee member if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of massage therapy; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of massage therapy.

(c) A person may not be a committee member 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 operation of the department.

Sec. 455.405. TERMS. Members of the committee serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

Sec. 455.406. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) does not have at the time of the member's appointment to the committee the qualifications required by Section 455.402;

(2) does not maintain during service on the committee the qualifications required by Section 455.402;

(3) is ineligible for membership under Section 455.404;

(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 committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member of the committee exists.

(c) If a member of the committee has knowledge that a potential ground for removal of another member exists, the member shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the commissioner of state health services that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the member shall notify the commissioner of state health services that a potential ground for removal exists.

Sec. 455.407. REIMBURSEMENT. A member is entitled to reimbursement for expenses as provided by the General Appropriations Act.

Sec. 455.408. PRESIDING OFFICER. (a) Not later than the 30th day after the date the commissioner of state health services appoints new committee members, the commissioner of state health services shall designate a presiding officer. The presiding officer serves at the pleasure of the commissioner of state health services.

(b) The committee may appoint additional officers as necessary.

Sec. 455.409. MEETINGS. The committee shall meet subject to the call of the commissioner of state health services.

Sec. 455.410. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the programs, functions, rules, and budget applicable to this chapter;

(2) the results of the most recent formal audit of the department;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the executive commissioner or the Texas Ethics Commission.

(c) A person appointed to the committee 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 _____. As soon as practicable after the effective date of this Act, the commissioner of state health services shall appoint the initial members of the advisory committee under Subchapter I, Chapter 455, Occupations Code, as added by this Act.

The amendment to **HB 2644** was read.

Senator Carona withdrew Floor Amendment No. 3.

Senator West moved to postpone further consideration of the bill to a time certain of 9:10 p.m. today.

The motion prevailed.

Question — Shall **HB 2644** as amended be passed to third reading?

RECESS

On motion of Senator Whitmire, the Senate at 8:40 p.m. recessed until 9:10 p.m. today.

AFTER RECESS

The Senate met at 9:23 p.m. and was called to order by Senator Brimer.

HOUSE BILL 448 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 448** at this time on its second reading:

HB 448, Relating to the calculation of child support obligations.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 448 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 448** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2644 ON SECOND READING

The Presiding Officer laid before the Senate **HB 2644** by Senator West on its second reading. The bill had been read second time, amended, and further consideration postponed to a time certain of 9:10 p.m. today:

HB 2644, Relating to the requirements for a massage therapist license.

Question — Shall **HB 2644** as amended be passed to third reading?

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2644 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2644 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2644** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1330 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1330** at this time on its second reading:

HB 1330, Relating to the pilot program providing for reduced undergraduate tuition during a term of the summer session at Texas A&M University.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1330 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1330** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 555 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 555** at this time on its second reading:

HB 555, Relating to the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 555 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 555** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 22, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SCR 85, Recalling S.B. No. 924 from the governor for further consideration.

SJR 29, Proposing a constitutional amendment authorizing the legislature to exempt all or part of the residence homesteads of certain totally disabled veterans from ad valorem taxation.

(Amended)

SJR 44, Proposing a constitutional amendment authorizing the legislature to permit the voters of a municipality with a population of less than 10,000 to authorize the governing body of the municipality to enter into an agreement with an owner of real property in or adjacent to an area in the municipality that has been approved for funding under certain revitalization or redevelopment programs to prohibit ad valorem tax increases on the owner's property for a limited period.

SJR 57, Proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students and for authority to enter into bond enhancement agreements with respect to general obligation bonds issued for that purpose.

SJR 64, Proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Transportation Commission to provide funding for highway improvement projects.

SJR 65, Proposing a constitutional amendment authorizing the issuance of general obligation bonds for maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 1656 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1656** at this time on its second reading:

HB 1656, Relating to regulation of irrigation systems and irrigators.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1656 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1656** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2724 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2724** at this time on its second reading:

HB 2724, Relating to the hours for the wholesale delivery or sale of beer.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2724 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2724** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

HOUSE BILL 2210 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2210** at this time on its second reading:

CSHB 2210, 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.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE

HOUSE BILL 2210 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2210** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1391 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1391** at this time on its second reading:

CSHB 1391, Relating to the provision of water and utility service.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1391 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1391** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3581 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3581** at this time on its second reading:

CSHB 3581, Relating to county authority to abate nuisances.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3581 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3581** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2482 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2482** at this time on its second reading:

CSHB 2482, Relating to the requirements regarding persons who service or maintain on-site sewage disposal systems; imposing an administrative penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2482 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2482** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3613 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3613** at this time on its second reading:

CSHB 3613, Relating to identification cards issued to peace officers, reserve law enforcement officers, honorably retired peace officers, and port pilots by certain governmental entities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3613 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3613** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3417 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3417** at this time on its second reading:

CSHB 3417, 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.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3417 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3417** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3559 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3559** at this time on its second reading:

CSHB 3559, Relating to the administration and powers of the Canadian River Municipal Water Authority.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3559 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3559** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2563 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2563** at this time on its second reading:

CSHB 2563, Relating to the powers and duties of the boards of trustees and superintendents of independent school districts and of regional education service centers.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2563 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2563** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 4096 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4096** at this time on its second reading:

HB 4096, Relating to the creation of the King's Crossing Municipal Utility District of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4096 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4096** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 316 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 316** at this time on its second reading:

HB 316, Relating to the ad valorem taxation of certain property that is part of certain public transportation facilities or part of certain rail facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 316 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 316** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3220 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3220** at this time on its second reading:

HB 3220, Relating to the environmental regulation and remediation of dry cleaning facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3220 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3220** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 470 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 470** be placed on its third reading and final passage:

HB 470, Relating to the creation, operation, management, and programs of homestead preservation districts.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

HOUSE BILL 2814 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSHB 2814** at this time on its second reading:

CSHB 2814, Relating to a pilot project in certain school districts for dual language education in English and another language.

The motion prevailed.

Senators Nichols and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nichols, Patrick.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2814 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2814** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nichols, Patrick.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

HOUSE BILL 544 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 544** at this time on its second reading:

HB 544, Relating to reduced tuition and fees for certain junior college district students who reside outside of the district.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 544 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 544** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

On motion of Senator West and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar by 4:00 p.m., was again suspended and the time was extended to 12:00 midnight today.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3837 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3837** at this time on its second reading:

CSHB 3837, Relating to regulation by the Railroad Commission of Texas of uranium exploration.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3837 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3837** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2783 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2783** at this time on its second reading:

HB 2783, Relating to the regulation of certain persons involved in mortgage lending.

The bill was read second time.

Senator Seliger offered the following committee amendment to the bill:

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.

The amendment to **HB 2783** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2783 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2783 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2783** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1637 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1637** at this time on its second reading:

HB 1637, 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.

The bill was read second time.

Senator Lucio offered the following committee amendment to the bill:

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".

The amendment to **HB 1637** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1637 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1637 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE CONCURRENT RESOLUTION 35
ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HCR 35** at this time on its second reading:

HCR 35, Urging the United States Congress to enact legislation to eliminate the 24-month Medicare waiting period for participants in Social Security Disability Insurance.

The resolution was read second time and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1473 ON SECOND READING**

Senator Whitmire moved to suspend the regular order of business to take up for consideration **CSHB 1473** at this time on its second reading:

CSHB 1473, Relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

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".

The amendment to **CSHB 1473** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1473 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1473 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1473** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3575 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3575** at this time on its second reading:

CSHB 3575, Relating to the monitoring and enhancement of health and human services information technology systems.

The bill was read second time.

(Senator Watson in Chair)

Senator Shapleigh offered the following amendment to the bill:

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.

The amendment to **CSHB 3575** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3575 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3575 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3575** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 22, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 7, Relating to instruction in cardiopulmonary resuscitation, the availability and use of automated external defibrillators at certain school campuses and athletic events, and the creation of a cardiovascular screening pilot program.

(Committee Substitute/Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 473 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 473** at this time on its second reading:

HB 473, Relating to the application of certain fee guidelines to health care provided under the workers' compensation system.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

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.

The amendment to **HB 473** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 473 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 473 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 473** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2498 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2498** at this time on its second reading:

HB 2498, Relating to hazardous duty pay for correctional officers employed by the Texas Department of Criminal Justice.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

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.

The amendment to **HB 2498** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2498 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2498 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2498** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2285 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2285** at this time on its second reading:

HB 2285, 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.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

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.

The amendment to **HB 2285** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2285 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2285 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2285** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2564 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **HB 2564** at this time on its second reading:

HB 2564, 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.

The motion prevailed.

Senators Patrick, Shapleigh, and Van de Putte asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

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.

The amendment to **HB 2564** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2 except as follows:

Absent: Ogden.

Senator Wentworth offered the following committee amendment to the bill:

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".

The amendment to **HB 2564** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 3 except as follows:

Absent: Ogden.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2564**, in SECTION 1 of the bill, added Section 552.275(a), Government Code (Senate committee printing, on page 1, line 33), by striking "36 hours" and substituting "48 hours".

The amendment to **HB 2564** was read.

On motion of Senator Wentworth, Floor Amendment No. 1 was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Nelson, Nichols, Patrick, Seliger, Shapiro, Uresti, Watson, Wentworth, Williams, Zaffirini.

Nays: Ellis, Estes, Lucio, Shapleigh, Van de Putte, West, Whitmire.

Absent: Gallegos, Ogden.

Senator Wentworth, on behalf of Senator Watson, offered the following amendment to the bill:

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).

The amendment to **HB 2564** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2564 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2564 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Seliger, Shapiro, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Patrick, Shapleigh, Van de Putte.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

HOUSE BILL 3315 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3315** at this time on its second reading:

HB 3315, 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.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3315**, Senate committee printing, as follows:

(1) Strike SECTION 6 of the bill, adding Section 225.014, Insurance Code (page 2, lines 16-20).

(2) Strike SECTION 8 of the bill, adding Section 226.006, Insurance Code (page 2, lines 31-35).

(3) Strike SECTION 10 of the bill, adding Section 226.057, Insurance Code (page 2, lines 46-50).

(4) In SECTION 11 of the bill, in added Subsection (k), Section 228.002, Insurance Code (page 4, lines 42-44), strike "In adopting rules under this chapter, the comptroller may not adopt a rule that does not specifically implement this section.".

(5) In SECTION 16 of the bill, in added Section 281.008, Insurance Code (page 5, lines 53-55), strike "In adopting rules under this section, the comptroller may not adopt a rule that does not specifically implement this section.".

(6) Renumber the SECTIONS of the bill accordingly.

The amendment to **HB 3315** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3315 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3315 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3315** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 568 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 568** at this time on its second reading:

HB 568, Relating to the requirements for an affidavit of voluntary relinquishment of parental rights.

The bill was read second time.

Senator Harris, on behalf of Senator Watson, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 568** by inserting the following appropriately numbered SECTION and renumbering the following SECTION accordingly:

SECTION __. Section 41, Texas Probate Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Parent-Child Relationship. A probate court may declare that the parent of a child under 18 years of age may not inherit from or through the child under the laws of descent and distribution if the court finds by clear and convincing evidence that the parent has:

(1) voluntarily abandoned and failed to support the child in accordance with the parent's obligation or ability for a minimum of three years before the date of the child's death, and did not resume support for the child before that date;

(2) voluntarily and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from and failed to support the child since birth; or

(3) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3, Family Code, for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 21.11 (indecenty with a child);

(E) Section 22.01 (assault);

(F) Section 22.011 (sexual assault);

(G) Section 22.02 (aggravated assault);

(H) Section 22.021 (aggravated sexual assault);

(I) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(J) Section 22.041 (abandoning or endangering child);

(K) Section 25.02 (prohibited sexual conduct);

(L) Section 43.25 (sexual performance by a child); and

(M) Section 43.26 (possession or promotion of child pornography).

(f) Treatment of Certain Relationships. On determination that the parent of a child may not inherit from or through the child under Subsection (e) of this section, the parent shall be treated as if the parent predeceased the child for purposes of:

(1) inheritance under the laws of descent and distribution; and

(2) any other cause of action based on parentage.

SECTION __. The changes in law made by SECTION __ of this Act apply only to the estate of a person who dies on or after the effective date of this Act. An estate of a person who dies before the effective date of this Act is covered by the law in effect on the date of the person's death, and the former law is continued in effect for that purpose.

The amendment to **HB 568** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 568 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 568 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 568** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 4134 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4134** at this time on its second reading:

HB 4134, Relating to the creation of the Harris County Improvement District No. 10; providing authority to impose a tax and issue bonds.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

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).

The amendment to **HB 4134** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4134 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 4134 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4134** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3518 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3518** at this time on its second reading:

HB 3518, Relating to the extension of, addition to, or modification of existing restrictive covenants in certain residential subdivisions.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

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 Senate Bill 979, Acts of the 80th Legislature, Regular Session, 2007, does not become law. If that bill becomes law, this Act has no effect."

The amendment to **HB 3518** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Nichols and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3518 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3518 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3518** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3594 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 3594** at this time on its second reading:

HB 3594, Relating to motor vehicle inspection facilities near the border of this state and Mexico.

The motion prevailed.

Senator Estes asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

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.

The amendment to **HB 3594** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3594 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Estes.

Absent: Ogden.

HOUSE BILL 3594 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3594** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

(President in Chair)

HOUSE BILL 3438 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3438** at this time on its second reading:

HB 3438, Relating to the powers and duties of the Rio Grande Regional Water Authority and the establishment of a member conference.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3438** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION __. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL
LAND ON WATER RIGHTS

Sec. 49.501. DEFINITIONS. In this subchapter:

(1) "Authority" means the Rio Grande Regional Water Authority.

(2) "Municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

- (1) the commission approves the amendment to the district's water rights; or
- (2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use

water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

- (1) a municipal water supplier;
- (2) a party other than a municipal water supplier; and
- (3) at least 100 acre-feet of municipal use water, with municipal priority of

allocation.

(b) The authority shall use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The authority shall make the calculation:

- (1) without charging any of the parties involved; and
- (2) using 100 percent of the value of monetary exchanges, not in-kind

exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a map of the municipal suppliers's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

SECTION ____. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0741 to read as follows:

Sec. 43.0741. ABOLITION OF CERTAIN WATER CONTROL AND IMPROVEMENT, WATER IMPROVEMENT, AND IRRIGATION DISTRICTS THAT DELIVER RAW WATER TO MUNICIPALITIES. (a) This section applies only to:

(1) a water control and improvement, water improvement, or irrigation district:

(A) at least 60 percent of the territory of which is located in a single municipality as a result of annexation or incorporation;

(B) that diverts raw water from the Rio Grande and in a 12-month period delivers at least 80 percent of that raw water to the municipality for municipal use; and

(C) that has no outstanding bonded indebtedness; and

(2) a municipality that:

(A) receives raw water from a district described by Subdivision (1); and

(B) is located in a county that has a population of 400,000 or more, borders the United Mexican States, and has three or more cities that each have a population of more than 25,000.

(b) A municipality may adopt an ordinance abolishing a district by a vote of at least two-thirds of the membership of the municipality's governing body if the governing body determines that:

(1) at least 80 percent of the raw water diverted by the district in any 12-month period was for municipal use by the municipality;

(2) the district has no outstanding bonded indebtedness;

(3) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(4) the abolition of the district is in the best interests of the residents and property of the municipality and the district.

(c) The voters of the municipality may protest the enactment or enforcement of the ordinance by filing a petition with the secretary of the municipality. The petition must be signed by a number of qualified voters of the municipality that is equal to at least 10 percent of the number of voters who voted in the most recent election for municipal officers. The petition must be filed not later than the 30th day after the later of:

(1) the date the municipality finally approves the ordinance; or

(2) the date of publication of the ordinance, if the ordinance is published before it is scheduled to take effect.

(d) The secretary shall verify the signatures on a petition filed in accordance with Subsection (c) and present the verified petition to the governing body of the municipality at its next scheduled meeting.

(e) On receipt of a verified petition, the governing body of the municipality shall suspend the ordinance, and the municipality may not take an action under the ordinance.

(f) The governing body of the municipality shall reconsider the suspended ordinance at its next meeting. If the governing body does not repeal the ordinance, the governing body shall submit a proposition for or against the ordinance to the voters at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the voters voting in the election vote for the ordinance.

(g) The ordinance takes effect on:

(1) the expiration of the period for filing a petition under Subsection (c) if the voters of the municipality do not file a petition that meets the requirements of that subsection before the expiration of that period; or

(2) the approval of the ordinance at an election under Subsection (f).

(h) If the ordinance takes effect:

(1) the district is abolished;

(2) except as provided by Subdivision (3), the property and other assets of the district vest in the municipality;

(3) ___ percent of the cash reserves of the district shall be paid to Rio Grande Regional Water Authority;

(4) the municipality becomes responsible for operating the district's facilities for the benefit of the district's existing customers and performing the services and functions that were performed by the district; and

(5) the municipality assumes all the debts, liabilities, and obligations of the district.

(i) A district that is abolished under this section shall provide its management and operational records to the municipality to ensure the orderly transfer of management and operational responsibility to the municipality.

SECTION ____. Subchapter O, Chapter 49, Water Code, as added by this Act, applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

The amendment to **HB 3438** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3438 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3438 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3438** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2653 ON SECOND READING

Senator Whitmire moved to suspend the regular order of business to take up for consideration **CSHB 2653** at this time on its second reading:

CSHB 2653, Relating to emergency services districts.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

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.

The amendment to **CSHB 2653** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2653 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2653 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2653** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 2291 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2291** at this time on its second reading:

HB 2291, Relating to a study of victim-offender mediation programs for juvenile offenders.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

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.

The amendment to **HB 2291** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2291 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2291 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2291** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2094 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 2094** at this time on its second reading:

CSHB 2094, Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2094** by striking all below the enacting clause and substituting the following:

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

(2) "Commission" means the Texas ~~[Transportation]~~ Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation ~~[Transportation].~~

(4) "Executive director ~~[Director]~~" means the executive director of the department ~~[or a person designated by the executive director who is not below the rank of division or special office director].~~

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS ~~[+ SANCTIONS]~~. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; ~~[and]~~

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) At least once every two years, the department shall inspect a vehicle storage facility that holds a license under this chapter.

(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the type and nature of the vehicle storage facility;

(2) the inspection history of the vehicle storage facility;

(3) any history of violations involving the vehicle storage facility; and

(4) any other factor determined by the commission by rule.

(d) The vehicle storage facility shall pay a fee for each risk-based inspection performed under Subsection (c). The commission by rule shall set the amount of the fee.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 to read as follows:

Sec. 2303.1015. EMPLOYEE LICENSE REQUIRED. (a) A person may not work at a vehicle storage facility unless the person holds a license issued under this chapter.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The commission by rule shall determine the types of information to be included in an application for a license under this chapter on a form prescribed by the executive director.

(b) The rules adopted ~~[by the commission]~~ under this section must require an ~~[the]~~ application for a facility license ~~[to be made under oath and]~~ to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation ~~[-and~~

~~[(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding \$200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application].~~

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

(b) The operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount for providing notice under this subchapter, including notice under Section 2303.154(c);

(2) an impoundment fee of \$20 for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee of:

(A) not less than \$5 and not more than \$20 for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; ~~and~~

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity; and

(5) a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of ~~[operates a vehicle storage facility for which a license has not been issued under]~~ this chapter; or

(2) employs an individual who does not hold an appropriate license required by ~~[violates a rule adopted by the commission under]~~ this chapter.

(b) An offense under this section is a Class C misdemeanor ~~[punishable by a fine of not less than \$200 and not more than \$500].~~

~~[(c) A person commits a separate offense for each day the person violates this section.]~~

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Towing and Storage Advisory Board.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

(A) a restricted space on a portion of an otherwise unrestricted parking facility; and

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and

(ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

(B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or

(C) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space.

(9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(10) "Public roadway" means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

(11) "Tow truck" means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

(14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

(15) "Vehicle owner" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code;

(B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family;

(C) who holds the vehicle through a lease agreement;

(D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or

(E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

(1) one representative of a towing company operating in a county with a population of less than one million;

(2) one representative of a towing company operating in a county with a population of one million or more;

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the type and nature of the towing company or operator;

(2) the inspection history;

(3) any history of complaints involving the towing company or operator;

and

(4) any other factor determined by the commission by rule.

(c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this

subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT. (a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow initiated by a peace officer, including a tow authorized under Section 545.3051, Transportation Code.

(b) To be eligible for an incident management towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant has at least \$500,000 of liability insurance for the tow truck; and

(3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

(c) A tow truck permitted under this section may also be used for private property towing and consent towing.

(d) When a tow truck is used for a nonconsent tow initiated by a peace officer under Section 545.3051, Transportation Code, the permit holder is an agent of law enforcement and is subject to Section 545.3051(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant has at least \$300,000 of liability insurance for the tow truck; and

(3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

(c) A tow truck permitted under this section may also be used for consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines; and

(2) the applicant has at least \$300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(b) The department shall issue a certificate containing a single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(b) The department shall notify the permit holder at least 30 days before the date a permit expires. The notice must be in writing and sent to the permit holder's last known address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2308.151. LICENSE REQUIRED. Unless the person holds an appropriate license under this subchapter, a person may not:

- (1) perform towing operations; or
- (2) operate a towing company.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

- (1) a completed application on a form prescribed by the executive director;
- (2) the required fees; and
- (3) any other information required by commission rule.

Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE. (a) An incident management towing operator's license is required to operate a tow truck permitted under Section 2308.103.

(b) An applicant for an incident management towing operator's license must:

- (1) be a licensed Texas driver; and
- (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

(a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

(b) An applicant for a private property towing operator's license must:

- (1) be a licensed Texas driver; and
- (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105.

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. ~~2308.201~~ [643.201]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [In addition to the registration requirements of Subchapter B, a] political subdivision of this state may regulate the operation of a tow truck to the

extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code ~~[this title]~~.

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed \$15.

~~[(e) In this section:~~

~~[(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

~~[(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

~~[(3) "Driver's license" has the meaning assigned by Section 521.001.~~

~~[(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.]~~

Sec. 2308.202 ~~[643.203]~~. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision shall ~~[may]~~ regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 ~~[643.204]~~. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 ~~[643.205]~~. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code~~], unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [684.101]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [684.011]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;

(2) prevents a vehicle from exiting a parking space in the facility;

(3) is in or obstructs a fire lane marked according to Subsection (c); or

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE-TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [684.012]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [€] prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

(2) the owner or operator of the vehicle has received actual notice from the parking facility owner that the vehicle will be towed at the vehicle owner's or operator's expense if it is in or not removed from an unauthorized space;

(3) the parking facility owner gives notice to the owner or operator of the vehicle under Subsection (b); or

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

(b) A parking facility owner is considered to have given notice under Subsection (a)(3) if:

(1) a conspicuous notice has been attached to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle stating:

(A) that the vehicle is in a parking space in which the vehicle is not authorized to be parked;

(B) a description of all other unauthorized areas in the parking facility;

(C) that the vehicle will be towed at the expense of the owner or operator of the vehicle if it remains in an unauthorized area of the parking facility; and

(D) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle; and

(2) a notice is mailed after the notice is attached to the vehicle as provided by Subdivision (1) to the owner of the vehicle by certified mail, return receipt requested, to the last address shown for the owner according to the vehicle registration records of the Texas Department of Transportation, or if the vehicle is registered in another state, the appropriate agency of that state.

(c) The notice under Subsection (b)(2) must:

(1) state that the vehicle is in a space in which the vehicle is not authorized to park;

(2) describe all other unauthorized areas in the parking facility;

(3) contain a warning that the unauthorized vehicle will be towed at the expense of the owner or operator of the vehicle if it is not removed from the parking facility before the 15th day after the postmark date of the notice; and

(4) state a telephone number that is answered 24 hours a day to enable the owner or operator to locate the vehicle.

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES. (a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G ~~[G]~~, including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) ~~[684.011(e)]~~, that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

(5) is a semitrailer, trailer, or truck-tractor, as defined by Chapter 502, Transportation Code, unless the owner or operator of the vehicle is permitted under the terms of a rental or lease agreement with the apartment complex to leave the unattended vehicle on the parking facility; or

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency vehicle described by Section 2308.251(b) ~~[684.011(b)]~~ removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) an unexpired license plate or registration insignia issued for the vehicle under Chapter 502, Transportation Code, or the vehicle registration law of another state or country; or

(2) a valid vehicle inspection certificate issued under Chapter 548, Transportation Code, or the vehicle inspection law of another state or country.

(e) A contract provision providing for the removal from a parking facility of a vehicle that does not display an unexpired license plate or registration insignia or a valid inspection certificate is valid only if the provision requires the owner or operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility. The notice must be:

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles; or

(2) to limit or restrict the enforcement of Chapter 683, Transportation Code, the abandoned motor vehicle law.

(g) A provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004, that is in conflict or inconsistent with this section is void and may not be enforced.

Sec. 2308.254 ~~[684.013]~~. **LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE.** A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 ~~[684.104]~~; or

(2) under the direction of a peace officer or the owner or operator of the vehicle.

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~];

or

(3) the direction of a peace officer or the owner or operator of the vehicle.

(c) Only a towing company that is insured against liability for property damage incurred in towing a vehicle may remove and store an unauthorized vehicle under this section.

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle;

or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G ~~[C]~~. SIGNS PROHIBITING UNAUTHORIZED VEHICLES
AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 ~~[684.031]~~. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 ~~[684.034]~~ or 2308.305 ~~[684.035]~~ an unauthorized vehicle may not be towed under Section 2308.252(a)(1) ~~[684.012(a)(1)]~~ unless a sign prohibiting unauthorized vehicles on a parking facility is:

(1) facing and conspicuously visible to the driver of a vehicle that enters the facility;

(2) located:

(A) on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility, including an entry from an alley abutting the facility; or

(B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:

(i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and

(ii) the width of an entrance exceeds 35 feet;

(3) permanently mounted on a pole, post, permanent wall, or permanent barrier;

(4) installed on the parking facility; and

(5) installed so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above ground level.

(b) Except as provided by Section 2308.305 ~~[684.035]~~, an unauthorized vehicle may be towed under Section 2308.252(a)(1) ~~[684.012(a)(1)]~~ only if each sign prohibiting unauthorized vehicles:

(1) is made of weather-resistant material;

(2) is at least 18 inches wide and 24 inches tall;

(3) contains the international symbol for towing vehicles;

(4) contains a statement describing who may park in the parking facility and prohibiting all others;

(5) bears the words "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing enforcement; and

(7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate the vehicle.

Sec. 2308.302 ~~[684.032]~~. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 ~~[684.035]~~, each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) ~~[684.031(b)(4)]~~ in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) ~~[684.031(b)]~~ displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) ~~[684.031(b)]~~, in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 ~~[684.033]~~. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~, the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 ~~[684.034]~~. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) ~~[684.031(a)(2)]~~, an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~:

(1) at the right or left side of each entrance to a designated area or group of parking spaces located on the restricted portion of the parking facility; or

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 ~~[684.035]~~. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~ may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H ~~[D]~~. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 ~~[684.051]~~. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) ~~[684.001(1)(B)(i)]~~ if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) ~~[684.012(a)(1), (2), or (3)]~~ and otherwise complies with this chapter.

Sec. 2308.352 ~~[684.052]~~. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) ~~[684.001(1)(B)(ii)]~~ if notice provided by Section 2308.252(a)(2) or (3) ~~[684.012(a)(2) or (3)]~~ is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 ~~[684.053]~~. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

(2) grant written permission to an abutting parking facility owner to:

(A) post one or more "No parking in R.O.W." signs along a common property line of the facility and the roadway; and

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

(b) A sign under Subsection (a)(2) must:

(1) state that a vehicle parked in the right-of-way may be towed at the expense of the owner or operator of the vehicle;

(2) be placed facing the public roadway:

(A) on the parking facility owner's property not more than two feet from the common boundary line; and

(B) at intervals so that no point in the boundary line is less than 25 feet from a sign posted under this subsection; and

(3) in all other respects comply with Subchapter G [€].

(c) After signs have been posted under Subsection (b), the parking facility owner or a towing company may remove an unauthorized vehicle from the right-of-way subject to the governmental entity's written permission given under Subsection (a)(2).

Sec. 2308.354 [~~684.054~~]. **AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY.** (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

(1) immobilize a vehicle parked in the municipality; and

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(2) the direction of a peace officer or the owner or operator of the vehicle.

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [E]. **REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS**

Sec. 2308.401 [~~684.081~~]. **PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY.** (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. **TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER.** (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. **LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE.** A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

(2) towing or storage fees assessed in connection with the vehicle's removal or storage.

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing company or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED
VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's removal or storage, the towing company or vehicle storage facility that received the payment shall at the time of payment give the owner or operator written notice of the person's rights under this chapter.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall include with that notice a notice of the person's rights under this chapter.

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

(B) the information that a request for a hearing must contain; and

(C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

(1) the name, address, and telephone number of the owner or operator of the vehicle;

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

(5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility.

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 14-day deadline for requesting a hearing under Subsection (a) does not apply, and the owner or operator of the vehicle may deliver a written request for a hearing at any time.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of \$20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, ~~and~~ the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

(1) the burden of proof is on the person who requested the hearing; and

(2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace.

(c) The issues in a hearing under this chapter are:

(1) whether probable cause existed for the removal and placement of the vehicle;

(2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

(3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

- (1) court costs to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; ~~and~~
- (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; ~~and~~
- (4) reimbursement of fees paid for vehicle towing and storage [~~Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

- (1) this chapter or a rule adopted under this chapter; or
- (2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

Sec. 2308.504. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

- (1) violates the permitting or licensing requirements of this chapter;
- (2) performs towing without a license to perform towing in this state;
- (3) employs an individual who does not hold the appropriate license required by this chapter; or
- (4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) ~~[(4)]~~ A person commits an offense if the person:

(1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 2308.201 ~~[643.204]~~ or 2308.202 ~~[643.203]~~, for which the political subdivision does not prescribe the penalty;

(2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 2308.201 ~~[643.204]~~ or 2308.202 ~~[643.203]~~ that is not authorized or is greater than the authorized amount of the fee;

(3) charges or collects a fee greater than the amount authorized under Section 2308.204 ~~[643.205]~~;

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 ~~[643.207]~~;

(5) violates Section 2308.205 ~~[643.206]~~; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code ~~[Chapter 685, Transportation Code]~~, does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed \$3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than \$15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code ~~[685.008, Transportation Code]~~) . . . \$20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

SECTION 3.03. Section 101.161, Government Code, is amended to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . \$20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; ~~or~~

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, ~~[or a tow truck]~~ on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of \$100 plus a \$10 fee for each vehicle requiring registration ~~[other than a tow truck or a \$25 fee for each tow truck the motor carrier proposes to operate];~~

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each additional vehicle ~~[other than a tow truck or \$25 for each tow truck]~~ and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than \$10 in equipment registration fees for a vehicle ~~[other than a tow truck]~~ registered under both this subchapter and Chapter 645 ~~[or more than \$25 if the vehicle is a tow truck].~~

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a \$10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of \$25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a \$20 fee for each vehicle registered [~~other than a tow truck or a fee of \$50 for each tow truck~~] under Subsection (a)(1);

(2) a \$10 fee for each vehicle registered [~~other than a tow truck or a fee of \$25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed \$100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.01. (a) The following provisions of the Transportation Code are repealed:

- (1) Section 643.001(7);
- (2) Section 643.101(d);
- (3) Section 643.202;
- (4) Section 684.001;
- (5) Section 685.001;
- (6) the heading to Subchapter E, Chapter 643;
- (7) the heading to Chapter 684;
- (8) the headings to Subchapters A, B, and F, Chapter 684; and
- (9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 4.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 4.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding

the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 4.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 4.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

The amendment to **CSHB 2094** was read.

Senator Nelson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 2094** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2303.155, Occupations Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) Except as provided by Subsection (h), the [The] operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount for providing notice under this subchapter, including notice under Section 2303.154(c);

(2) an impoundment fee of \$20 for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee of:

(A) not less than \$5 and not more than \$20 for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; and

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity.

(h) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.

The amendment to Floor Amendment No. 1 to **CSHB 2094** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 2094**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent: Ogden.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2094 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 2094 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2094** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2864 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2864** at this time on its second reading:

HB 2864, Relating to a pilot program to provide supplemental technology-based instruction to students in rural school districts.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

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.

The amendment to **HB 2864** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2864 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2864 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2864** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1495 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1495** at this time on its second reading:

HB 1495, 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.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

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.

The amendment to **HB 1495** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Nichols and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1495 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 1495 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1495** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1250 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1250** at this time on its second reading:

HB 1250, Relating to prohibiting discrimination based on a student's secondary school in awarding certain financial aid for higher education.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

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".

The amendment to **HB 1250** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Patrick and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1250 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 1250 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1250** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2502 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2502** at this time on its second reading:

HB 2502, Relating to the composition of the Jim Wells County Juvenile Board.

The bill was read second time.

(Senator Brimer in Chair)

Senator Hinojosa offered the following amendment to the bill:

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]~~.

The amendment to **HB 2502** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2502 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2502 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2502** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2714 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2714** at this time on its second reading:

HB 2714, Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

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.

The amendment to **HB 2714** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2714 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2714 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2714** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2238 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSHB 2238** at this time on its second reading:

CSHB 2238, Relating to the establishment of the Texas Education Data System (TEDS).

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2238** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION ____ . Section 411.042, Government Code, is amended by amending Subsections (b) and (g) and adding Subsection (h) to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense; ~~and~~

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and

(G) the date the order expires; and

(7) grant access to criminal history record information in the manner authorized under Subchapter F.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;

~~and~~

(4) active protective orders issued under Chapter 71, Family Code, and reporting procedures that ensure that information relating to the issuance of an active protective order and to the dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system; and

(5) a system for providing criminal history record information through the criminal history clearinghouse under Section 411.0845.

(h) The department may contract with private vendors as necessary in implementing this section.

SECTION ____. Subsection (i), Section 411.081, 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 Medical ~~[State]~~ Board ~~[of Medical 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 Board of 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; and

(24) the Texas Education Agency.

SECTION _____. Subsections (b) and (c), Section 411.083, Government Code, are amended to read as follows:

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

(3) the person who is the subject of the criminal history record information;

(4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated;

(6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph

(A), (B), or (C) is violated;

(7) a county or district clerk's office; and

(8) [~~(7)~~] the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4), (5), or (6) [~~or (b)(5)~~] only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7) [~~(b)(6)~~] only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(7) [~~(b)(6)~~] may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(7) [~~(b)(6)~~] does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(8) [~~(b)(7)~~] only to the extent necessary for the office of court administration to perform a duty imposed by law to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(8) [~~(b)(7)~~] in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

SECTION ____ . Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0845 to read as follows:

Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The department shall establish an electronic clearinghouse and subscription service to provide criminal history record information to a particular person entitled to receive criminal history record information and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

(1) the criminal history record information reported to the department or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any criminal history record information reported to the department or the Federal Bureau of Investigation.

(c) If the department provides information received from the Federal Bureau of Investigation, the department must include with the information the date the department received information from the Federal Bureau of Investigation.

(d) The department shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain criminal history record information under this subchapter. Information collected under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

(1) the person's full name, date of birth, sex, Texas driver's license number or personal identification certificate number, and social security number;

(2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and

(3) any other information required by the department.

(f) The department shall maintain an Internet website for the administration of the clearinghouse and an electronic subscription service to provide notice of updates to a particular criminal history record to each person entitled under this subchapter to receive criminal history record information updates to that particular record. The department shall update clearinghouse records as a result of any change in information discovered by the department. Within 48 hours after the department becomes aware that a person's criminal history record information in a clearinghouse record has changed, the department shall provide notice of the updated information only to each subscriber to that specific record.

(g) As soon as practicable, a subscriber who is no longer entitled to receive criminal history record information relating to a particular person shall notify the department. The department shall cancel the person's subscription to that record and may not notify the former subscriber of any updated information to that record.

(h) A person who is the subject of the criminal history record information requested under this section must consent to the release of the information.

(i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation is subject to federal law and regulations, federal executive orders, and federal policy.

(j) The department may charge a fee for subscription services to cover the costs of administering this section.

(k) A governmental agency may coordinate with the department regarding the collection of a fee for the criminal history record information through the fingerprinting fee collection process.

SECTION ____ . Section 411.087, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The department may provide access to state and national criminal history record information to nongovernmental entities entitled to that information under 42 U.S.C. Section 5119a. The department must follow federal law and regulation, federal executive orders, and federal policy in releasing information under this subsection.

SECTION ____ . Section 411.090, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department.

SECTION ____ . Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0901 to read as follows:

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

SECTION ____ . The heading to Section 411.097, Government Code, is amended to read as follows:

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [SCHOOL DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION SHARED SERVICES ARRANGEMENT].

SECTION ____ . Subsection (b), Section 411.097, Government Code, is amended to read as follows:

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department[~~, no more than twice each year,~~] criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer or employee of the district, school, service center, or shared services arrangement.

SECTION ____ . Section 730.007, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) Personal information obtained by an agency under Section 411.0845, Government Code, in connection with a motor vehicle record may be disclosed as provided by that section.

SECTION _____. As soon as practicable after the effective date of this Act, the Department of Public Safety of the State of Texas shall establish a criminal history clearinghouse as required by Section 411.0845, Government Code, as added by this Act.

The amendment to **CSHB 2238** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2238** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 2.107, Education Code (page 5, lines 50 through 61), strike added Subsection (a) and substitute the following:

The commissioner of education and commissioner of higher education shall contract with one or more organizations with well-established peer-review processes to develop recommendations, drawing from independently peer-reviewed research that is based on empirical evidence and adheres to the basic principles of sound statistical analysis, for using the system to measure improvement in individual student achievement on assessment instruments.

(2) In SECTION 1 of the bill, in added Section 2.107, Education Code (page 5, line 62, through page 6, line 14), strike added Subsections (b) and (c).

The amendment to **CSHB 2238** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2238** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 28.006, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The superintendent of each school district shall:

(1) report to the commissioner and the board of trustees of the district the results of the reading instruments; ~~and~~

(2) report, in writing, to a student's parent or guardian the student's results on the reading instrument; and

(3) using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically each student's raw score on the reading instrument to the agency for use in the school readiness certification system.

(d-1) The agency shall contract with the State Center for Early Childhood Development to receive and use scores under Subsection (d)(3) on behalf of the agency.

SECTION ____. Section 29.161, Education Code, is amended by amending Subsection (c) and adding Subsections (d) through (f) to read as follows:

(c) The system must:

(1) be reflective of research in the field of early childhood care and education;

(2) be well-grounded in the cognitive, social, and emotional development of young children; ~~and~~

(3) apply a common set of criteria to each program provider seeking certification, regardless of the type of program or source of program funding; and

(4) be capable of fulfilling the reporting and notice requirements of Sections 28.006(d) and (g).

(d) The agency shall collect each student's raw score results on the reading instrument administered under Section 28.006 from each school district using the system created under Subsection (a) and shall contract with the State Center for Early Childhood Development for purposes of this section.

(e) The State Center for Early Childhood Development shall, using funds appropriated for the school readiness certification system, provide the system created under Subsection (a) to each school district to report each student's raw score results on the reading instrument administered under Section 28.006.

(f) The agency shall:

(1) provide assistance to the State Center for Early Childhood Development in developing and adopting the school readiness certification system under this section, including providing access to data for the purpose of locating the teacher and campus of record for students; and

(2) require confidentiality and other security measures for student data provided to the State Center for Early Childhood Development as the agency's agent, consistent with the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g).

The amendment to **CSHB 2238** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2238 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2238 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2238** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1386 ON SECOND READING**

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSHB 1386** at this time on its second reading:

CSHB 1386, Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.

The motion prevailed.

Senator Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1386** by striking all below the enacting clause and substitute the following:

SECTION 1. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.206, Section 39.207, and Section 39.208 to read as follows:

Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATION UNIT DECOMMISSIONING COST PLAN. (a) For purposes of this section, Section 39.207, and Section 39.208:

(1) "Decommissioning" includes decommissioning and decontamination of a nuclear generating unit consistent with federal Nuclear Regulatory Commission requirements.

(2) "Nuclear decommissioning trust" means an external and irrevocable trust created for the purpose of funding decommissioning obligations for a nuclear generating unit, consistent with federal Nuclear Regulatory Commission requirements.

(3) "Nuclear generating unit" means an electric generating facility that uses nuclear energy to generate electricity for sale and is licensed by the Nuclear Regulatory Commission and was built in this state after January 1, 2007 but before December 31, 2020.

(4) "Power generation company" means a power generation company as that term is defined in Section 31.002(10), that is licensed by the Nuclear Regulatory Commission to operate a nuclear generating unit, and includes its parent and affiliates.

(b) A power generation company that intends to own or operate a nuclear generating unit shall submit to the commission a plan for funding a nuclear decommissioning trust, in accordance with Sections 39.207 and 39.208. The plan shall detail the power generation company's proposal for funding a nuclear decommissioning trust, consistent with the requirements of the Nuclear Regulatory Commission.

(c) The commission shall approve, modify, or reject a plan within 180 days after the date of a filing under Subsection (b). An order approved under this subsection shall be competitively neutral and minimize the decommissioning risk to electric customers, consistent with Sections 39.207 and 39.208.

Sec. 39.207. NUCLEAR-POWERED ELECTRIC GENERATION UNIT DECOMMISSIONING TRUST AND RESPONSIBILITY. (a) A power generation company shall have the responsibility to fund:

(1) the costs associated with funding the decommissioning obligations for the nuclear generating unit; or

(2) the power generation company's portion of the decommissioning costs for the nuclear generating unit in proportion to the company's ownership interest in the nuclear generating unit if the unit is owned by more than one person.

(3) The obligation to fund a nuclear decommissioning trust fund is not dischargeable in bankruptcy.

(b) The power generation company shall establish a nuclear decommissioning trust for a nuclear generating unit it owns or for the proportionate share of a nuclear generating unit of which it owns a part. The funding obligations for the trust must begin before the nuclear generating unit commences its initial fuel load and begins commercial operation to generate power for sale. The terms of the trust must be consistent with trust terms and conditions the federal Nuclear Regulatory Commission requires for providing financial assurance for decommissioning.

(c) The commission by order shall establish for a nuclear generating unit the amount of annual decommissioning funding necessary to meet the decommissioning obligations for the nuclear generating unit as established by the federal Nuclear Regulatory Commission. The power generation company shall perform a study on the cost of decommissioning to establish the decommissioning obligations before the nuclear generating unit begins commercial operation to generate power for sale. The study shall be performed by the power generation company at least once in each three year period during the unit's operating license period using the most current reasonably available information on the cost of decommissioning. The commission shall conduct a proceeding at least once in each three-year period to review the study and other current reasonably available information on the cost of decommissioning and determine the reasonableness of the study.

(d) The power generation company shall file an annual report to provide the status of the decommissioning trust fund and to update the commission as to its ability to fund the decommissioning trust fund. In determining the amount of the annual decommissioning funding under this subsection, at least once in each three-year period, the commission shall conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding for the associated nuclear generating unit. On the conclusion of the review proceeding, the commission by order shall revise the amount of annual funding for the nuclear generating unit in order to ensure that the nuclear decommissioning trust fund is adequately funded.

(e) A power generation company shall remit the appropriate amount of annual decommissioning funding to the nuclear decommissioning trust created for its proportionate ownership position in a nuclear generating unit in accordance with the commission's funding order issued under Subsection (c) or (d). The commission shall take appropriate actions to ensure proper funding of the nuclear decommissioning trust, including possibly terminating the power generation company's registration to operate, if the company violates this subsection.

(f) A power generation company that owns a nuclear generating unit is the funds administrator of the nuclear decommissioning trust for the associated nuclear generating unit. The company as funds administrator shall invest the trust funds in accordance with guidelines established by commission rule and consistent with the federal Nuclear Regulatory Commission guidelines so that the decommissioning funds, plus the amounts earned from investment of the funds, will be available at the time of decommissioning. The commission shall adopt rules to define the company's specific duties as funds administrator and requirements regarding prudent management and investment of nuclear decommissioning trust funds.

(g) The commission shall adopt rules necessary to ensure that:

(1) a power generation company remits sufficient funds to a nuclear decommissioning trust on an annual basis to cover the cost of decommissioning a nuclear generating unit at the end of its operating license period in accordance with applicable state and federal laws and regulations;

(2) the periodic cost studies and reviews described in Subsections (c) and (d) include all current reasonably available information as determined necessary and appropriate by the commission;

(3) all funds remitted to a nuclear decommissioning trust are prudently managed and spent for their intended purpose;

(4) the funds remitted to a nuclear decommissioning trust and the amounts earned from investing the funds, will be available for, and restricted to the purpose of decommissioning of the associated nuclear generating unit, including if the trust or nuclear generating unit is transferred to another person.

Sec. 39.208. NUCLEAR-POWERED ELECTRIC GENERATION UNIT DECOMMISSIONING TRUST FUNDING ASSURANCES. (a) A plan filed under Section 39.206 may include the following mechanisms to allow a power generation company to provide added assurances to satisfy the Nuclear Regulatory Commission's nuclear decommissioning trust requirements:

(1) prepayment by the power generation company of a portion of the amount necessary to assure decommissioning;

(2) surety, insurance or other financial guarantees;

(3) parental or other corporate guarantees;

(4) assurances through contractual obligations;

(5) the accelerated payment of amounts required under Section 39.207;

(6) periodic reporting of financial information associated with a nuclear generating unit; and,

(7) a customer recourse mechanism whereby electric customers provide assurance of decommissioning, pursuant to Subsections (b) and (c).

(b) Prior to allowing a power generation company to utilize the mechanism in Subsection (a)(7), the commission shall determine the creditworthiness of the power generation company and may, as a condition of granting a petition to utilize the mechanism in Subsection (a)(7), require a percentage of the cost of decommissioning a nuclear generating unit at the end of its operating license period to be paid into a nuclear decommissioning trust before the nuclear generating unit commences its initial fuel load and begins commercial operation.

(c) In considering a plan seeking electric customer recourse under Subsection (a)(7), the commission shall:

(1) require electric customers to be at risk for nuclear decommissioning expense to the minimum extent necessary in order to allow for the development of a nuclear generating unit; and

(2) adopt a payment period for a power generation company subject to this subsection that is designed to achieve full funding of the decommissioning trust in a reasonable and expeditious manner, as necessary to allow for the development of a nuclear generating unit.

(d) The commission shall determine the manner in which any shortfall in the actual cost of decommissioning a nuclear generating unit shall be recovered. In making the determination, the commission shall look first to a power generation company. To the extent that no recourse exists to a power generation company or any other entity subject to this section, electric customers may be responsible for funding any shortfall in the cost of decommissioning the nuclear generating unit if the nuclear generating unit is being decommissioned and the balance of the nuclear decommissioning trust is not sufficient to fund the cost of decommissioning.

(e) If electric customers become responsible for the costs of decommissioning a nuclear generating unit and incur costs under this section and the nuclear generating unit is operational, as a condition of operating the generating unit, the power generation company or any new owner or operator shall repay the costs the electric customers incurred in the manner determined by the commission. The commission may authorize the repayment to occur over a period established by the commission.

(f) The commission shall, in conjunction with the Nuclear Regulatory Commission, investigate the development of a mechanism whereby the State of Texas could ensure that funds for decommissioning will be obtained when necessary in the same manner as if the State of Texas were the licensee under federal law. The

commission shall file legislative recommendations regarding any changes in law that may be necessary to carry out the purposes of this subsection prior to January 15, 2009, which may be combined with the report required by Section 31.003.

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

The amendment to **CSHB 1386** was read.

Senator Hegar offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 1386** in Section 39.206 by inserting a new subsection (d) to read as follows:

(d) Nothing in this section shall be construed to require a power generation company to use a nuclear decommissioning trust as a method to provide funds for decommissioning, if the power generation company can otherwise satisfy the decommissioning financial assurance requirements of the federal Nuclear Regulatory Commission.

The amendment to Floor Amendment No. 1 to **CSHB 1386** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 1386**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent: Ogden.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1386 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Wentworth.

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1386 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1386** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 3496 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3496** at this time on its second reading:

HB 3496, Relating to the deadlines for the delivery or filing of certain ad valorem tax notices.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

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.

The amendment to **HB 3496** was read and was adopted by the following vote: Yeas 28, Nays 0.

Absent: Estes, Jackson, Ogden.

Senator Janek offered the following amendment to the bill:

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 House Bill No. 1, Acts of the 79th Legislature, 3rd Called Session, 2006, and appropriations of state funds by the 80th Legislature".

The amendment to **HB 3496** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3496 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3496 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3496** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1481 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1481** at this time on its second reading:

HB 1481, Relating to standing for certain individuals to file a suit affecting the parent-child relationship.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1481** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.007 to read as follows:

Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In this section, "foster children's bill of rights" means the list of rights prescribed by Subsection (b) to which each child in substitute care is entitled.

(b) It is the policy of this state that each child in substitute care has the right:

(1) to live in a safe, healthy, and comfortable home where the child is treated with respect;

(2) to be free from physical, sexual, emotional, and other abuse, including corporal punishment and any form of discipline that humiliates or demeans the child;

(3) to be free from discrimination or harassment on the basis of gender, race, ethnicity, religion, national origin, disability, sexual orientation, or HIV status;

(4) to receive adequate and healthy food;

(5) to receive and keep adequate clothing suitable to the child's age and size and comparable to the clothing of other children in the community;

(6) to receive appropriate medical, dental, vision, and mental health services;

(7) subject to Subdivisions (8) and (9), to not be physically restrained for longer than one minute unless other less restrictive behavioral interventions have been unsuccessful and physical restraint is necessary to:

(A) prevent substantial physical harm or imminent, probable death to the child or imminent physical harm to another person; or

(B) administer medication or provide medical treatment prescribed by a physician;

(8) to not be physically restrained for any period as punishment, retribution, retaliation, or discipline, to obtain compliance from the child, for the convenience of the foster parent or other substitute care provider, or as a substitute for effective treatment or rehabilitation;

(9) to not be locked or otherwise confined in any room, building, or facility or placed in an area where the child is physically prevented from leaving, unless the child is placed in a residential treatment facility or a mental health facility under an order of a physician or court;

(10) to be placed in substitute care with the child's siblings unless that placement is not in the best interests of the child or the child's sibling;

(11) if a sibling of the child is not placed in substitute care with the child, to be informed in writing of the name, address, and telephone number of the foster care home or other child-care facility in which the sibling is placed, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(12) to have a private storage space in the home or facility in which the child resides to store the child's personal belongings;

(13) to not be subjected to unreasonable searches of the child's personal belongings;

(14) to contact caseworkers, attorneys ad litem, guardians ad litem, and court-appointed special advocates;

(15) to communicate with caseworkers, judges, attorneys ad litem, guardians ad litem, court-appointed special advocates, foster parents, and other providers in the child's primary language, including in sign language;

(16) to regularly visit and regularly contact siblings and to regularly contact other family members, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(17) to never be denied contact or visitation with siblings or other family members as a form of discipline;

(18) to attend religious services and activities of the child's choice;

(19) to interact with persons outside of the foster care system, including teachers, church members, mentors, and friends;

(20) to make and receive confidential telephone calls and to send and receive unopened mail, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(21) to receive an age-appropriate money allowance, in an amount determined by the foster parent or other substitute care provider, for the purpose of developing money management skills, using money from the foster care payments made by the department to the foster parent or other substitute care provider for the care of the child;

(22) to maintain a personal bank account and manage personal income consistent with the child's age and developmental level, unless prohibited by the child's service plan;

(23) to expect that the child's records will be kept confidential in accordance with existing state and federal law, including the child's medical, mental health, child protective services, and educational records;

(24) to receive care and treatment in the least restrictive environment that is most like a family setting, consistent with the best interests and needs of the child;

(25) to not be unnecessarily or excessively medicated;

(26) to not be admitted as a voluntary inpatient to a mental health facility unless the child consents as required by Section 572.001(c), Health and Safety Code;

(27) if the child is at least 14 years of age, to request a medical review of the child's medical care, including a review of the medications prescribed to the child, by a medical review team, and to receive a copy of the results of any medical review;

(28) to be informed before the child is 16 years of age that the child, at 16 years of age, may request a court hearing to determine if the child has the capacity to consent to medical care under Section 266.010;

(29) if the child is at least 16 years of age, to consent to all or some medical care, as authorized by the court under Section 266.010;

(30) if the child is at least 12 years of age, to participate in the development of the child's service plan and permanency plan;

(31) if the child is at least 12 years of age, to review and receive information regarding the child's service plan and permanency plan, including any changes made to the plans;

(32) to receive information about the child's foster parent or other substitute care provider consistent with the child's age and developmental level;

(33) to be appointed an attorney ad litem who is competent and provides zealous legal representation of the child's interests, and to meet, in person, with the child's attorney ad litem before each hearing involving the child;

(34) to request the appointment of an attorney or guardian ad litem to represent the child, if the child is not already represented by an attorney or guardian ad litem;

(35) to attend a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(36) if the child is at least 14 years of age, to remain in the courtroom during a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(37) regardless of the child's age, to speak privately to the judge at a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(38) if the child has a disability, to be informed, in writing, of the name, existence, purpose, telephone number, and address of the protection and advocacy system established in this state under the applicable federal developmental disability laws, as defined by Section 112.001, Human Resources Code, for the purpose of advocating for and protecting the rights of persons with that disability;

(39) to attend school and participate in sports, clubs, and other school-related extracurricular activities, consistent with the child's age and developmental level;

(40) to participate in community activities, including recreational and social activities, consistent with the child's age and developmental level;

(41) to the extent possible, to have minimal disruption in the child's education, including the right to attend the same school if placed with an alternative substitute care provider, unless otherwise ordered by the court;

(42) if the child participates in a special education program, to meet and consult with the surrogate parent assigned to the child in accordance with federal law, regarding the child's individualized education program prior to each admission, review, and dismissal committee meeting held regarding the child;

(43) to participate in an organization that advocates for or on behalf of foster youth;

(44) to work and develop job skills consistent with the child's age in accordance with state and federal law;

(45) if the child is at least 16 years of age, to have access to information regarding postsecondary educational and vocational options available to the child, including information regarding financial aid available for postsecondary education and the course work or other requirements required to complete vocational training and postsecondary educational programs;

(46) to attend classes and receive other services provided under the Preparation for Adult Living Program established under Section 264.121;

(47) on, or as soon as possible after, the date of the child's 18th birthday or the date the child's disabilities of minority are removed, to be provided with the child's health and education passport information, social security card, state-issued personal identification card, and a certified copy of the child's birth certificate;

(48) to be informed in writing of how the child may obtain copies of the child's case records;

(49) to be informed in writing of the name, address, and telephone number of the person at or the division or office of the department that handles complaints regarding a violation of the child's rights; and

(50) to make a confidential complaint with the appropriate person at or the division or office of the department, or to speak confidentially with an appropriate person at the department, regarding a violation of the child's rights without punishment or threat of punishment for making the complaint.

(c) This section may not be construed to require a foster parent or other substitute care provider to take any action that would impair the health or safety of a child in substitute care. Any action taken that is inconsistent with the foster children's bill of rights must be included in the permanency progress report or placement review report filed with a court.

(d) The department shall provide a written copy of the foster children's bill of rights to each child placed in substitute care in the child's primary language, if possible, and shall inform the child of the rights provided by the foster children's bill of rights:

(1) orally in the child's primary language, if possible, and in simple, nontechnical terms; or

(2) for a child who has a disability, including an impairment of vision or hearing, through any means that can reasonably be expected to result in successful communication with the child.

(e) A home or facility in which a child is placed in substitute care shall provide a copy of the foster children's bill of rights to a child on the child's request. The foster children's bill of rights must be printed in English and in a second language.

(f) The department shall promote the participation of foster children and former foster children in educating other foster children about the foster children's bill of rights.

The amendment to **HB 1481** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1481** (Senate committee printing) by adding the following appropriately number SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Sections 263.401(a), (b), and (c), Family Code, are amended to read as follows:

(a) Unless the court has commenced the trial on the merits [~~rendered a final order~~] or granted an extension under Subsection (b), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court shall dismiss the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child.

(b) Unless the court has commenced the trial on the merits, the [~~The~~] court may not retain the suit on the court's docket after the time described by Subsection (a) unless the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as temporary managing conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). If the court retains the suit on the court's docket, the court shall render an order in which the court:

(1) schedules the new date on which the suit will be dismissed if the trial on the merits has not commenced, which date must be [~~for dismissal of the suit~~] not later than the 180th day after the time described by Subsection (a);

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the trial on the merits [~~a final hearing~~] on a date not later than the date specified under Subdivision (1) [~~that allows the court to render a final order before the required date for dismissal of the suit under this subsection~~].

(c) If the court grants an extension but does not commence the trial on the merits [~~render a final order or dismiss the suit on or~~] before the required date for dismissal under Subsection (b), the court shall dismiss the suit. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b).

SECTION ____. Section 263.402(b), Family Code, is amended to read as follows:

(b) A party to a suit under this chapter who fails to make a timely motion to dismiss the suit ~~[or to make a motion requesting the court to render a final order before the deadline for dismissal]~~ under this subchapter waives the right to object to the court's failure to dismiss the suit. A motion to dismiss under this subsection is timely if the motion is made before the ~~[department has introduced all of the department's evidence, other than rebuttal evidence, at the]~~ trial on the merits commences.

SECTION ____. Sections 263.403(b) and (c), Family Code, are amended to read as follows:

(b) If the court renders an order under this section, the court shall:

(1) include in the order specific findings regarding the grounds for the order; and

(2) schedule a new date, not later than the 180th day after the date the temporary order is rendered, for dismissal of the suit unless a trial on the merits has commenced.

(c) If a child placed with a parent under this section must be moved from that home by the department before the dismissal of the suit or the commencement of the trial on the merits ~~[rendering of a final order]~~, the court shall, at the time of the move, schedule a new date for dismissal of the suit unless a trial on the merits has commenced. The new dismissal date may not be later than the original dismissal date established under Section 263.401 or the 180th day after the date the child is moved under this subsection, whichever date is later.

SECTION ____. Section 263.401(d), Family Code, is repealed.

SECTION ____. The changes in law made by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect at the time the suit was filed, and the former law is continued in effect for that purpose.

The amendment to **HB 1481** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1481 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 1481 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1481** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3769 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3769** at this time on its second reading:

HB 3769, 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.

The bill was read second time.

Senator Averitt offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend Section 1 to **HB 3769** 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.

The amendment to **HB 3769** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3769 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 3769 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3769** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1864 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1864** at this time on its second reading:

CSHB 1864, Relating to periods of possession of a child under a standard possession order.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1864** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Subdivision (5), Section 153.314, Family Code (page 2, line 10), strike "[and]" and substitute "and".

(2) In SECTION 2 of the bill, in amended Section 153.314, Family Code (page 2, lines 17 through 23), strike the following:

; and

(7) the parent not otherwise entitled under this standard order to present possession of a child on December 25 is entitled to have possession of the child for a two-hour period selected by that parent on December 24 or December 25, provided that the parent picks up the child from the residence of the conservator entitled to possession and returns the child to that same place

The amendment to **CSHB 1864** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1864** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly: relating to possession of or access to a child in a suit affecting the parent-child relationship during military deployment of the child's parent.

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

SECTION 1. Section 153.3161, Family Code, is amended to read as follows:

Sec. 153.3161. ~~[LIMITED]~~ POSSESSION DURING MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child;
and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) In addition to the general terms and conditions of possession required by Section 153.316, if a possessory conservator or a joint managing conservator of the child without the exclusive right to designate the primary residence of the child is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces, the court shall:

(1) permit that conservator to designate a person who may exercise ~~[limited]~~ possession of the child on behalf of that conservator during any period that the conservator is deployed ~~under a military deployment~~ ~~[outside of the United States];~~ and

(2) if the conservator elects to designate a person under Subdivision (1), provide in the order for ~~[limited]~~ possession of the child by the designated person under those circumstances, subject to the court's determination that the ~~[limited]~~ possession is in the best interest of the child.

(c) ~~(b)~~ If the court determines that the ~~[limited]~~ possession is in the best interest of the child, the court shall provide in the order that during periods of military deployment:

(1) the designated person has the right to possession of the child for the periods and in the manner in which the deployed conservator would be entitled to exercise possession if not deployed [on the first weekend of each month beginning at 6 p.m. on Friday and ending at 6 p.m. on Sunday];

(2) ~~[the other parent shall surrender the child to the designated person at the beginning of each period of possession at the other parent's residence;~~

~~[(3) the designated person shall return the child to the other parent's residence at the end of each period of possession;~~

~~[(4)]~~ the child's other parent and the designated person are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator ~~[Sections 153.316(5)-(9)];~~

(3) ~~[(5)]~~ the designated person has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) ~~[(6)]~~ the designated person is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) ~~(c)~~ After the military deployment is concluded, and the deployed parent returns to that parent's usual residence, the designated person's right to ~~[limited]~~ possession under this section terminates and the rights of all affected parties are governed by the terms of any court order applicable when a parent is not deployed.

SECTION 2. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child;
and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) The military deployment [~~outside this country~~] of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child.

(c) [~~(b)~~] If the court determines that modification is in the best interest of the child, the court may modify the order or decree to provide in a manner consistent with Section 153.3161 for [~~limited~~] possession of the child during the period of the military deployment by a person designated by the deployed conservator.

SECTION 3. Section 153.3161, Family Code, as amended by this Act, applies only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 4. Section 156.105, Family Code, as amended by this Act, applies only to an action to modify an order in a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2007.

The amendment to **CSHB 1864** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1864** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____. Subchapter A, Chapter 153, Family Code, is amended by adding Section 153.015 to read as follows:

Sec. 153.015. ELECTRONIC COMMUNICATION WITH CHILD BY CONSERVATOR. (a) In this section, "electronic communication" means any communication facilitated by the use of any wired or wireless technology via the Internet or any other electronic media. The term includes communication facilitated by the use of a telephone, electronic mail, instant messaging, videoconferencing, or webcam.

(b) If a conservator of a child requests the court to order periods of electronic communication with the child under this section, the court may award the conservator reasonable periods of electronic communication with the child to supplement the conservator's periods of possession of the child. In determining whether to award electronic communication, the court shall consider:

- (1) whether electronic communication is in the best interest of the child;
- (2) whether equipment necessary to facilitate the electronic communication is reasonably available to all parties subject to the order; and
- (3) any other factor the court considers appropriate.

(c) If a court awards a conservator periods of electronic communication with a child under this section, each conservator subject to the court's order shall:

(1) provide the other conservator with the e-mail address and other electronic communication access information of the child;

(2) notify the other conservator of any change in the e-mail address or other electronic communication access information not later than 24 hours after the date the change takes effect; and

(3) if necessary equipment is reasonably available, accommodate electronic communication with the child, with the same privacy, respect, and dignity accorded all other forms of access, at a reasonable time and for a reasonable duration subject to any limitation provided by the court in the court's order.

(d) The court may not consider the availability of electronic communication as a factor in:

(1) computing the amount of child support to be ordered;

(2) rendering an order granting periods of possession of the child; or

(3) considering a request by the managing conservator of the child to relocate the primary residence of the child.

(e) In a suit in which the court's order contains provisions related to a finding of family violence in the suit, including supervised visitation, the court may award periods of electronic communication under this section only if:

(1) the award and terms of the award are mutually agreed to by the parties;
and

(2) the terms of the award:

(A) are printed in the court's order in boldfaced, capitalized type; and

(B) include any specific restrictions relating to family violence or supervised visitation, as applicable, required by other law to be included in a possession or access order.

SECTION ____ . Section 153.015, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship filed before, on, or after the effective date of this Act.

The amendment to **CSHB 1864** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1864 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1864 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1864** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2006 ON SECOND READING

Senator Janek moved to suspend the regular order of business to take up for consideration **HB 2006** at this time on its second reading:

HB 2006, Relating to the use of eminent domain authority.

The motion prevailed.

Senator Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Janek offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2006** (House engrossed version) as follows:

(1) In SECTION 2 of the bill, in Subdivision (2), Subsection (b), added Section 2206.051, Government Code (page 3, line 1), strike "or" and substitute "[~~or~~]".

(2) In SECTION 2 of the bill, in Subdivision (3), Subsection (b), added Section 2206.051, Government Code (page 3, line 10), between "Tax Code" and the period, insert the following:

; or

(4) is not for a public use

(3) In SECTION 2 of the bill, strike Subsection (e), added Section 2206.051, Government Code (page 4, lines 18-22), and substitute the following:

(e) The determination by the governmental or private entity proposing to take the property that the taking is for a public use or does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the contemplated use is truly public or whether the taking involves that act or circumstance.

(4) In SECTION 2 of the bill, in added Subsection (a), Section 2206.103, Government Code (page 5, lines 7-8), strike "Except as provided by Subsection (b) or (d)," and substitute "If the motion required by Subsection (c) indicates that the first record vote applies to all units of property to be condemned, and the minutes of the entity reflect that the first vote applies to all of those units, a single ordinance, resolution, or order may be adopted for all of those units of property. If a member of

the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated."

(5) In SECTION 2 of the bill, in added Subsection (a), Section 2206.103, Government Code (page 5, lines 9-10), strike "for which condemnation proceedings are to be initiated".

(6) In SECTION 3 of the bill, in the heading of added Section 21.0112, Property Code (page 6, line 18), strike "GOOD FAITH STANDARD" and substitute "BONA FIDE OFFER REQUIRED".

(7) In SECTION 3 of the bill, in added Section 21.0112, Property Code (page 6, line 20), strike "good faith effort" and substitute "bona fide offer".

(8) In SECTION 3 of the bill, in added Section 21.0112, Property Code (page 6, line 21), after the period, insert "A bona fide offer is an offer that is not arbitrary or capricious and is based on a reasonably thorough investigation and honest assessment of the amount of the just compensation due to the landowner as a result of the taking."

(9) In SECTION 4 of the bill, in added Subdivision (5), Subsection (b), Section 21.012, Property Code (page 7, line 20), strike "good faith effort" and substitute "bona fide offer".

(10) In SECTION 6 of the bill, in amended Section 21.041, Property Code (page 8, line 14), between "shall" and "admit", insert ", subject to the applicable rules of evidence,".

(11) In SECTION 6 of the bill, in amended Section 21.041, Property Code (page 8, line 14), between "evidence" and "on", insert "that would be considered by willing, knowledgeable, and prudent purchasers and sellers in the marketplace who are not under duress".

(12) In SECTION 6 of the bill, strike amended Subdivisions (1) and (2), Section 21.041, Property Code (page 8, lines 15-26), and substitute the following:

- (1) the value of the property being condemned;
- (2) the injury to the property owner;

(13) Strike SECTION 7 of the bill (page 9, lines 4-13) and renumber subsequent SECTIONS accordingly.

(14) In SECTION 10 of the bill, strike added Subsection (d), Section 21.047, Property Code (page 10, lines 8-12), and substitute the following:

(d) If a court hearing a suit under this chapter determines that a condemning entity did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0112, the court shall abate the suit and order the condemnor to make a bona fide offer. If a court hearing a suit in this chapter finds that by filing a petition under Section 21.012 or by filing any other motion or pleading in the proceeding initiated by the filing of that petition the condemnor violated Chapter 10, Civil Practices and Remedies Code, the court shall order the condemnor to pay:

- (1) all costs are provided by Subsection (a); and

(2) any reasonable attorney's fees incurred by the owner that are directly related to the violation.

(15) In SECTION 11 of the bill, in amended Subsection (a), Section 21.101, Property Code (page 10, line 21), between "acquisition" and the period, insert "or the governmental entity fails to begin operation or construction of the project for which the property was acquired before the 10th anniversary of that date".

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

SECTION __. Section 21.102, Property Code, is amended to read as follows:

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER AT TIME OF CANCELLATION OF PUBLIC USE OR ON FAILURE TO BEGIN OPERATION OR CONSTRUCTION OF A PUBLIC USE PROJECT. Not later than the 180th day after the date of the cancellation of the public use for which real property was acquired through eminent domain from a property owner under Subchapter B or the 180th day after the 10th anniversary of the date on which the property was acquired if the governmental entity fails to begin operation or construction of the project for which the property was acquired before the 10th anniversary of that date, the governmental entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that the public use has been canceled or the governmental entity fails to begin operation or construction of the project for which the property was acquired; and

(3) a description of the person's right under this subchapter to repurchase the property.

SECTION __. Not later than January 1, 2009, the comptroller shall:

(1) identify all public and private entities with eminent domain authority; and

(2) make recommendations to the legislature and the governor regarding:

(A) which entities have, need, or should have eminent domain authority;

(B) whether that eminent domain authority of those entities should be continued, expanded, or limited; and

(C) the cause and effect of continuing, eliminating, expanding, or limiting the eminent domain authority of those entities.

The amendment to **HB 2006** was read.

Senator Janek withdrew Committee Amendment No. 1.

Senator Janek offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 2006** (House engrossed version) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 4 through 24).

(2) Add the following appropriately numbered SECTIONS to the bill:

SECTION __. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

(a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding or owns property that is adjacent to property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain or property adjacent to the requestor's property, if applicable.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor or property adjacent to that property, if applicable, as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under Subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

SECTION __. Section 552.0037, Government Code, is repealed.

(3) Renumber existing SECTIONS of the bill accordingly.

The amendment to **HB 2006** was read.

Senator Janek withdrew Committee Amendment No. 2.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2006** (Senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 3, line 66, through page 4, line 19).

(2) Add the following appropriately numbered SECTIONS to the bill:

SECTION __. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

(a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under Subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

SECTION __. Section 552.0037, Government Code, is repealed.

(3) Renumber existing SECTIONS of the bill accordingly.

The amendment to **HB 2006** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Wentworth.

Absent: Ogden.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2006** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Subdivision (2), Subsection (b), added Section 2206.051, Government Code (page 4, line 47), strike "or" and substitute "[~~or~~]".

(2) In SECTION 2 of the bill, in Subdivision (3), Subsection (b), added Section 2206.051, Government Code (page 4, line 56), between "Tax Code" and the period, insert the following:

; or

(4) is not for a public use

(3) In SECTION 2 of the bill, in Paragraph (A), Subdivision (7), Subsection (c), added Section 2206.051, Government Code (page 5, line 7), between "carrier" and "subject", insert "pipeline".

(4) In SECTION 2 of the bill, in Paragraph (A), Subdivision (7), Subsection (c), added Section 2206.051, Government Code (page 5, lines 7-8), strike "subject to Chapter 111, Natural Resources Code".

(5) In SECTION 2 of the bill, in added Subsection (a), Section 2206.103, Government Code (page 5, lines 38-39), strike "Except as provided by Subsection (b) or (d)," and substitute "If the motion required by Subsection (c) indicates that the first record vote applies to all units of property to be condemned, and the minutes of the entity reflect that the first vote applies to all of those units, a single ordinance, resolution, or order may be adopted for all of those units of property. If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated.".

(6) In SECTION 2 of the bill, in added Subsection (a), Section 2206.103, Government Code (page 5, lines 40-41), strike "for which condemnation proceedings are to be initiated".

(7) In SECTION 3 of the bill, in the recital (page 6, line 6), strike "Sections 21.0112 and 21.0113" and substitute "Section 21.0112".

(8) In SECTION 3 of the bill, in the heading of added Section 21.0112, Property Code (page 6, line 7), strike "GOOD FAITH STANDARD" and substitute "BONA FIDE OFFER REQUIRED".

(9) In SECTION 3 of the bill, in added Section 21.0112, Property Code (page 6, line 9), strike "good faith effort" and substitute "bona fide offer".

(10) In SECTION 3 of the bill, in added Section 21.0112, Property Code (page 6, line 10), after the period, insert "A bona fide offer is an offer that is not arbitrary or capricious and is based on a reasonably thorough investigation and honest assessment of the amount of the just compensation due to the landowner as a result of the taking."

(11) In SECTION 3 of the bill, strike added Section 21.0113, Property Code (page 6, lines 11-25).

(12) In SECTION 4 of the bill, in added Subdivision (5), Subsection (b), Section 21.012, Property Code (page 6, line 36), strike "good faith effort" and substitute "bona fide offer".

(13) Strike SECTION 6 of the bill (page 6, line 53, through page 7, line 4) and substitute the following:

SECTION 6. Section 21.041, Property Code, is amended to read as follows:

Sec. 21.041. EVIDENCE. (a) For the purposes of this section, market value is the price a property will bring when offered for sale by a person who desires to sell the property, but is not obliged to sell the property, and is bought by a person who desires to buy the property, but is not under a necessity to buy the property.

(b) As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall, subject to the Texas Rules of Evidence, admit evidence on:

(1) the market value, before the condemnation, of the property being condemned;

(2) subject to Section 21.042, the net change to the market value of [the injury to the property owner;

~~[(3) the benefit to]~~ the property owner's remaining property, considering both injury and benefit to the property owner; and

~~(3) [(4)]~~ the use of the property for the purpose of the condemnation.

(14) Strike SECTION 7 of the bill (page 7, lines 5-14) and renumber subsequent SECTIONS of the bill accordingly.

(15) In SECTION 10 of the bill, strike added Subsection (d), Section 21.047, Property Code (page 7, lines 36-40), and substitute the following:

(d) If a court hearing a suit under this chapter determines that a condemning entity did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0112, the court shall abate the suit and order the condemnor to make a bona fide offer. If the court finds that by filing a petition under Section 21.012 or by filing any other motion or pleading in the proceeding initiated by the filing of that petition the condemnor violated Chapter 10, Civil Practice and Remedies Code, the court shall order the condemnor to pay:

(1) all costs as provided by Subsection (a); and

(2) any reasonable attorney's fees incurred by the owner that are directly related to the violation.

(16) In SECTION 11 of the bill, in amended Subsection (a), Section 21.101, Property Code (page 7, line 45), between "entity" and "through", insert "other than a port that is acquiring property for deep water navigation".

(17) In SECTION 11 of the bill, in amended Subsection (a), Section 21.101, Property Code (page 7, line 49), between "acquisition" and the period, insert "or the governmental entity fails to begin the operation or construction of the project for which the property was acquired before the 10th anniversary of that date".

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

SECTION __. Section 21.102, Property Code, is amended to read as follows:

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER AT TIME OF CANCELLATION OF PUBLIC USE OR ON FAILURE TO BEGIN OPERATION OR CONSTRUCTION OF PROJECT. Not later than the 180th day after the date of the cancellation of the public use for which real property was acquired through eminent domain from a property owner under Subchapter B or the 180th day after the 10th anniversary of the date on which the property was acquired if the governmental entity fails to begin the operation or construction of the project for which the property was acquired before the 10th anniversary of that date, the governmental entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that the public use has been canceled or the governmental entity has failed to begin the operation or construction of the project for which the property was acquired; and

(3) a description of the person's right under this subchapter to repurchase the property.

SECTION __. Not later than January 1, 2009, the comptroller shall:

(1) identify all public and private entities with eminent domain authority; and

(2) make recommendations to the legislature and the governor regarding:

(A) which entities have, need, or should have eminent domain authority;

(B) whether that eminent domain authority of those entities should be continued, expanded, or limited; and

(C) the cause and effect of continuing, eliminating, expanding, or limiting the eminent domain authority of those entities.

The amendment to **HB 2006** was read.

Senator Duncan offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **HB 2006** as follows:

Strike SECTION 6 of the bill and replace it as follows:

SECTION 6. Section 21.041, Property Code, is amended to read as follows:

Sec. 21.041. EVIDENCE. As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall, subject to the Texas Rules of Evidence, admit evidence on:

(1) the value of the property being condemned;

- (2) the injury to the property owner;
- (3) the benefit to the property owner's remaining property; and
- (4) the use of the property for the purpose of the condemnation.

The amendment to Floor Amendment No. 2 to **HB 2006** was read and failed of adoption by the following vote: Yeas 8, Nays 19.

Yeas: Averitt, Duncan, Ellis, Fraser, Hegar, Lucio, Watson, Zaffirini.

Nays: Brimer, Carona, Deuell, Eltife, Estes, Harris, Hinojosa, Jackson, Janek, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth, West.

Absent: Gallegos, Ogden, Whitmire, Williams.

Question recurring on the adoption of Floor Amendment No. 2 to **HB 2006**, the amendment was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Wentworth.

Absent: Ogden.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 2006** (Senate committee printing) in SECTION 2 of the bill, immediately following added Section 2206.051, Government Code (page 5, between line 26-27), by adding the following:

Sec. 2206.052. LIMITATIONS ON EASEMENTS. (a) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including a gravel, asphalt, or concrete road, at any locations above the easement that the property owner chooses.

(b) The portion of a road constructed under this section that is over the easement may not exceed 40 feet in width.

The amendment to **HB 2006** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 2006** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, immediately following added Section 2206.051, Government Code (page 5, between lines 26 and 27), insert the following:

(f) This subsection applies only to an authority created under Chapter 451, Transportation Code, that operates in an area in which the principal municipality has a population of 1.9 million or more. Notwithstanding any other law, an authority to

which this subsection applies may not take private property through the use of eminent domain if the taking of the property is related to the construction of a segment of a fixed guideway transit system, including a light rail or bus rapid transit segment, authorized by the voters of the authority and:

(1) the planned route of the segment as approved in the ballot proposition submitted to the voters is changed by the authority after approval of the ballot proposition by the voters; or

(2) the ballot proposition submitted to the voters did not specifically describe the route of the segment.

(g) If a court in which a condemnation proceeding is initiated under Chapter 21, Property Code, determines that the condemnation proceeding was initiated in violation of Subsection (f), the court shall:

(1) determine that the condemnor does not have the right to condemn;

(2) dismiss the condemnation proceeding; and

(3) order the condemnor to pay all costs of the condemnation proceeding, including all reasonable attorney's fees incurred by the owner.

(2) In SECTION 2 of the bill, immediately following added Section 2206.103, Government Code (page 6, between lines 4 and 5), insert the following:

(f) This subsection applies only to an authority created under Chapter 451, Transportation Code, that operates in an area in which the principal municipality has a population of 1.9 million or more. Notwithstanding any other law, an authority to which this subsection applies may not vote to authorize the initiation of condemnation proceedings under this section if the proposed condemnation proceedings are related to the construction of a segment of a fixed guideway transit system, including a light rail or bus rapid transit segment, authorized by the voters of the authority and:

(1) the planned route of the segment as approved in the ballot proposition submitted to the voters is changed by the authority after approval of the ballot proposition by the voters; or

(2) the ballot proposition submitted to the voters did not specifically describe the route of the segment.

(g) If a court in which a condemnation proceeding is initiated under Chapter 21, Property Code, determines that the condemnation proceeding was authorized or initiated in violation of Subsection (f), the court shall:

(1) determine that the condemnor does not have the right to condemn;

(2) dismiss the condemnation proceeding; and

(3) order the condemnor to pay all costs of the condemnation proceeding, including all reasonable attorney's fees incurred by the owner.

(3) In SECTION 17 of the bill, strike Subsection (b) (page 16, lines 35-43) and substitute the following:

(b) Except as provided by this section, the changes in law made by Chapter 2206, Government Code, and Chapter 21, Property Code, as amended by this Act, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this

Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(c) Section 2206.051, Government Code, as added by this Act, applies to a condemnation proceeding in which the petition is filed on or after the effective date of this Act or a condemnation proceeding pending on the effective date of this Act in which the petition was filed on or after May 15, 2007.

(d) Section 2206.103, Government Code, as added by this Act, applies to a condemnation proceeding authorized or initiated on or after May 15, 2007.

The amendment to **HB 2006** was read.

Senator Patrick withdrew Floor Amendment No. 5.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 2006** (House committee report), as follows:

(1) On page 8, between lines 14 and 15, insert the following:

SECTION 8. Section 21.042, Property Code, is amended to read as follows:

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, the special commissioners shall consider any diminished access to the highway and to or from the remaining property to the extent that it affects the present market value of the real property, including any factors considered when determining actual fair market value of property for ad valorem tax purposes ~~[or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property].~~

(2) Renumber subsequent sections accordingly.

The amendment to **HB 2006** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent: Ogden.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2006 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Wentworth.

Absent: Ogden.

(Midnight)

HOUSE BILL 2006 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2006** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 1519 ON SECOND READING

The Presiding Officer laid before the Senate **HB 1519** by Senator Carona on its second reading. The bill had been read second time and further consideration postponed until Tuesday, May 22, 2007:

HB 1519, Relating to including within the offense of barratry and solicitation of professional employment certain solicitations made during certain periods.

Question — Shall **HB 1519** be passed to third reading?

HB 1519 was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 1519 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1519** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 438 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **HB 438** at this time on its second reading:

HB 438, Relating to the limitation on the maximum percentage increase in the appraised value of a residence homestead for ad valorem taxation.

The motion prevailed.

Senator Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

(President in Chair)

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 438** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, amended Section 23.23(a)(2)(A), Tax Code (on page 1, line 24), strike "10 percent" and substitute "five [~~10~~] percent".

(2) In SECTION 3 of the bill, the proposed constitutional election ballot language (on page 1, line 50), strike "110 percent" and substitute "105 percent".

The amendment to **HB 438** was read.

POINT OF ORDER

Senator Ellis raised a point of order that Floor Amendment No. 1 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Ellis withdrew the point of order.

Question — Shall Floor Amendment No. 1 to **HB 438** be adopted?

On motion of Senator Hinojosa, Floor Amendment No. 1 was tabled by the following vote: Yeas 20, Nays 8.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Hinojosa, Lucio, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Hegar, Jackson, Janek, Nelson, Nichols, Patrick, Williams.

Absent: Fraser, Gallegos, Ogden.

HB 438 was passed to third reading by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent: Gallegos, Ogden.

HOUSE BILL 438 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 438** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3232 ON SECOND READING**

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3232** at this time on its second reading:

CSHB 3232, Relating to certain subdivision golf courses.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3232 ON THIRD READING**

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3232** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2237 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2237** at this time on its second reading:

CSHB 2237, Relating to grants and programs for dropout prevention, high school success, and college and workforce readiness in public schools.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2237** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Subsection (b), Section 7.009, Education Code (page 1, line 30), strike "open-enrollment charter schools" and substitute "public charter districts [~~open enrollment charter schools~~]".

(2) Add the following appropriately numbered SECTIONS to the bill and renumber the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Effective August 1, 2008, Subchapter D, Chapter 12, Education Code, is repealed.

(b) Except as provided by Section 11A.1041, Education Code, as added by this Act, each open-enrollment charter school operating or holding a charter to operate on August 1, 2008, shall be dissolved in accordance with Subchapter J, Chapter 11A, Education Code, as added by this Act.

SECTION _____. Subtitle C, Title 2, Education Code, is amended by adding Chapter 11A to read as follows:

CHAPTER 11A. PUBLIC CHARTER DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11A.001. DEFINITIONS. In this chapter:

(1) "Charter holder" means the entity to which a charter is granted under this chapter.

(2) "Governing body of a charter holder" means the board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of a public charter district" means the board of directors, board of trustees, or other governing body of a public charter district. The term includes the governing body of a charter holder if that body acts as the governing body of the public charter district.

(4) "Management company" means a person, other than a charter holder, who provides management services for a public charter district.

(5) "Management services" means services related to the management or operation of a public charter district, including:

(A) planning, operating, supervising, and evaluating the public charter district's educational programs, services, and facilities;

(B) making recommendations to the governing body of the public charter district relating to the selection of school personnel;

(C) managing the public charter district's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the public charter district a proposed budget;

(E) recommending policies to be adopted by the governing body of the public charter district, developing appropriate procedures to implement policies adopted by the governing body of the public charter district, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the public charter district based on the indicators adopted under Section 39.051 or by the governing body of the public charter district.

(6) "Officer of a public charter district" means:

(A) the principal, director, or other chief operating officer of a public charter district or campus; or

(B) a person charged with managing the finances of a public charter district.

Sec. 11A.002. AUTHORIZATION. (a) In accordance with this chapter, the State Board of Education may grant a charter on the application of an eligible entity for a public charter district to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; or

(4) a governmental entity in this state.

(b) The State Board of Education may grant a charter for a public charter district only to an applicant that meets all financial, governing, and operational standards adopted by the commissioner under this chapter.

(c) The State Board of Education may not grant more than a total of 215 charters for public charter districts.

(d) An educator employed by a school district before the effective date of a charter for a public charter district operated at a school district facility may not be transferred to or employed by the public charter district over the educator's objection.

Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter district:

(1) shall provide instruction to and assess a number of students at a number of elementary or secondary grade levels, as provided by the charter, sufficient to permit the agency to assign an accountability rating under Chapter 39;

(2) is governed under the governing structure required by this chapter and described by the charter;

(3) retains authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Section 11A.103; and

(4) does not have authority to impose taxes.

Sec. 11A.004. STATUS. A public charter district or campus is part of the public school system of this state.

Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related to operation of a public charter district, a public charter district is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. Except as provided by Section 11A.154, a member of the governing body of a public charter district or of a charter holder is immune from liability to the same extent as a school district trustee.

Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL. A reference in law to an open-enrollment charter school means a public charter district or public charter campus, as applicable.

[Sections 11A.007-11A.050 reserved for expansion]

SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by Subsection (b) or (c), a public charter district is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) A public charter district is subject to this code and rules adopted under this code only to the extent the applicability to a public charter district of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of a public charter district located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter district has the powers granted to schools under this title.

(b) A public charter district is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) under Section 42.006;

(B) reporting an educator's misconduct under Section 21.006;

(C) criminal history records under Subchapter C, Chapter 22;

(D) reading instruments and accelerated reading instruction programs under Section 28.006;

(E) satisfactory performance on assessment instruments and accelerated instruction under Section 28.0211;

(F) intensive programs of instruction under Section 28.0213;

(G) high school graduation under Section 28.025;

(H) special education programs under Subchapter A, Chapter 29, including a requirement that special education teachers obtain appropriate certification;

(I) bilingual education under Subchapter B, Chapter 29, including a requirement that bilingual education teachers obtain appropriate certification;

(J) prekindergarten programs under Subchapter E, Chapter 29;

(K) extracurricular activities under Section 33.081;

(L) discipline management practices or behavior management techniques under Section 37.0021;

(M) health and safety under Chapter 38; and

(N) public school accountability under Subchapters B, C, D, G, and I, Chapter 39.

(c) A public charter district is entitled to the same level of services provided to school districts by regional education service centers. The commissioner shall adopt rules that provide for the representation of public charter districts on the boards of directors of regional education service centers.

(d) The commissioner may by rule permit a public charter district to voluntarily participate in any state program available to school districts, including a purchasing program, if the public charter district complies with all terms of the program.

(e) Chapter 26 applies to a public charter district and a parent of a student enrolled in the public charter district in the same manner as a school district or parent of a student enrolled in the school district. In this subsection, "parent" has the meaning assigned by Section 26.002.

Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC INFORMATION LAWS. (a) With respect to the operation of a public charter district, the governing body of a charter holder and the governing body of a public charter district are considered to be governmental bodies for purposes of Chapters 551 and 552, Government Code.

(b) With respect to the operation of a public charter district, any requirement in Chapter 551 or 552, Government Code, that applies to a school district, the board of trustees of a school district, or public school students applies to a public charter district, the governing body of a charter holder, the governing body of a public charter district, or students in attendance at a public charter district campus.

Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL GOVERNMENT RECORDS. (a) With respect to the operation of a public charter district, a public charter district is considered to be a local government for purposes of Subtitle C, Title 6, Local Government Code, and Subchapter J, Chapter 441, Government Code.

(b) Records of a public charter district, a charter holder, or a management company that relate to a public charter district are government records for all purposes under state law.

(c) Any requirement in Subtitle C, Title 6, Local Government Code, or Subchapter J, Chapter 441, Government Code, that applies to a school district, the board of trustees of a school district, or an officer or employee of a school district applies to a public charter district or management company, the governing body of a charter holder, the governing body of a public charter district, or an officer or employee of a public charter district or management company except that the records of a public charter district or management company that ceases to operate shall be transferred in the manner prescribed by Subsection (d).

(d) The records of a public charter district or management company that ceases to operate shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. The commissioner may designate any appropriate entity to serve as custodian, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner shall ensure that the transferred records, including student and personnel records, are transferred to a custodian capable of:

(1) maintaining the records;
(2) making the records readily accessible to students, parents, former school employees, and other persons entitled to access; and
(3) complying with applicable state or federal law restricting access to the records.

(e) If the charter holder of a public charter district that ceases to operate or an officer or employee of the district or a management company refuses to transfer school records in the manner specified by the commissioner under Subsection (d), the commissioner may ask the attorney general to petition a court for recovery of the records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

(f) A record described by this section is a public school record for purposes of Section 37.10(c)(2), Penal Code.

Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC PURCHASING AND CONTRACTING. (a) This section applies to a public charter district unless the district's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the State Board of Education.

(b) A public charter district is considered to be:

(1) a governmental entity for purposes of:

(A) Subchapter D, Chapter 2252, Government Code;

(B) Subchapter A, Chapter 2254, Government Code; and

(C) Subchapter B, Chapter 271, Local Government Code; and

(2) a local government for purposes of Sections 2256.009-2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to a public charter district, the governing body of a charter holder, or the governing body of a public charter district.

Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF INTEREST. (a) A member of the governing body of a charter holder, a member of the governing body of a public charter district, or an officer of a public charter district is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of a public charter district is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code; and

(2) a teacher at a public charter district may serve as a member of the governing body of the charter holder or the governing body of the public charter district if the teachers serving on the governing body:

(A) do not constitute a quorum of the governing body or any committee of the governing body; and

(B) comply with the requirements of Sections 171.003-171.007, Local Government Code.

(b) To the extent consistent with this section, a requirement of a law listed in this section that applies to a school district or the board of trustees of a school district applies to a public charter district, the governing body of a charter holder, or the governing body of a public charter district.

(c) An employee who is not a teacher may serve as a member of the governing body of a charter holder or the governing body of a public charter district if:

(1) the charter holder operating the public charter district where the individual is employed and serves as a member of the governing body operated an open-enrollment charter school under Subchapter D, Chapter 12, on August 31, 2007;

(2) the individual was employed by the charter holder and serving as a member of the governing body on August 31, 2007, in compliance with former Section 12.1054;

(3) the individual had been continuously so employed and serving since a date on or before January 1, 2007; and

(4) the charter holder meets or exceeds the fiscal and academic standards described by Section 11A.1041(a)(1) for the preceding school year, as determined by the commissioner.

(d) If under Subsection (c) an individual continues to be employed and serve as a member of the governing body, the individual may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in the status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees. In addition, the individual may not hear, consider, or act on any grievance or complaint concerning the individual or a matter with which the individual has dealt in the individual's capacity as an employee.

Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public charter district, including the governing body of a public charter district and any district employee with final authority to hire a district employee, is subject to a prohibition, restriction, or requirement, as applicable, imposed by state law or by a rule adopted under state law, relating to nepotism under Chapter 573, Government Code.

(b) Notwithstanding Subsection (a), a member of the governing body of a charter holder or public charter district may not be related in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another member of the governing body of the charter holder or public charter district.

(c) This section does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the charter holder operating the public charter district where the individual is employed or serves as a member of the governing body operated an open-enrollment charter school under Subchapter D, Chapter 12, on August 31, 2007;

(2) the individual was employed or serving in the position on August 31, 2007, in compliance with former Section 12.1055;

(3) the individual has been continuously employed or serving since a date on or before January 1, 2007; and

(4) the charter holder meets or exceeds the fiscal and academic standards described by Section 11A.1041(a)(1) for the preceding school year, as determined by the commissioner.

(d) If, under Subsection (c), an individual continues to be employed or serve in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

[Sections 11A.058-11A.100 reserved for expansion]

SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

Sec. 11A.101. APPLICATION. (a) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used to apply for a charter for a public charter district; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application form must provide for including the information required under Section 11A.103 to be contained in a charter.

(c) The State Board of Education may approve or deny an application based on criteria it adopts and on financial, governing, and operational standards adopted by the commissioner under this chapter. The criteria the board adopts must include:

(1) criteria relating to improving student performance and encouraging innovative programs; and

(2) criteria relating to the educational benefit for students residing in the geographic area to be served by the proposed public charter district, as compared to any significant financial difficulty that a loss in enrollment may have on any school district whose enrollment is likely to be affected by the public charter district.

(d) A public charter district may not begin operating under this chapter unless the commissioner has certified that the applicant has acceptable administrative and accounting systems and procedures in place for the operation of the proposed public charter district.

Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The commissioner by rule shall adopt a procedure for providing notice to each member of the legislature that represents the geographic area to be served by the proposed public charter district, as determined by the commissioner, on receipt by the State Board of Education of an application for a charter for a public charter district under Section 11A.101.

Sec. 11A.103. CONTENT. (a) Each charter granted under this chapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) establish educational goals, which must include acceptable student performance as determined under Chapter 39;

(3) specify the grade levels to be offered, which must be sufficient to permit the agency to assign an accountability rating under Chapter 39;

(4) describe the facilities to be used;

(5) describe the geographical area served by the program, which may not be statewide; and

(6) specify any type of enrollment criteria to be used.

(b) A charter holder of a public charter district shall consider including in the district's charter a requirement that the district develop and administer personal graduation plans under Section 28.0212.

(c) The terms of a charter may not include plans for future increases in student enrollment, grade levels, campuses, or geographical area, except that:

(1) the charter may contain a plan for adding grade levels as necessary to comply with Section 11A.253(c) or (d); and

(2) the commissioner may approve such an increase in a charter revision request under Section 11A.106.

Sec. 11A.104. FORM. A charter for a public charter district shall be in the form of a license issued by the State Board of Education to the charter holder.

Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner shall immediately grant a charter under this chapter to the following entities on or before August 1, 2008:

(1) an eligible entity, other than an eligible entity described by Subdivision (2) or (3), holding a charter under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2007, if:

(A) for fiscal year 2006, the annual audit report for the entity was timely filed in compliance with Section 44.008 and reported:

(i) total assets that exceeded or equaled total liabilities; or

(ii) total liabilities that exceeded total assets by not more than 20 percent of total expenditures;

(B) except as provided by Subsection (c) or (d), at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in mathematics, as determined by the school's assessment instrument results for the 2006-2007 school year; and

(C) except as provided by Subsection (c) or (d), at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in reading or English language arts, as applicable, as determined by the school's assessment instrument results for the 2006-2007 school year;

(2) a governmental entity holding a charter under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2007; and

(3) an eligible entity holding a charter under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2007, if at least 85 percent of students enrolled in the school reside in a residential facility.

(b) For purposes of Subsection (a)(1)(A), an entity that fails to submit an audit report under Section 44.008 for fiscal year 2006 before September 1, 2007, is considered for fiscal year 2006 to have total liabilities that exceed total assets by more than 20 percent of total expenditures, unless the commissioner determines that unusual circumstances contributed to the failure to submit a report and allows submission after September 1, 2007.

(c) If an eligible entity described by Subsection (a)(1) does not meet the academic performance requirements of Subsections (a)(1)(B) and (C), the commissioner shall immediately grant a charter under this chapter to the entity on or before August 1, 2008, if:

(1) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in mathematics, as determined by averaging the school's assessment instrument results for the 2005-2006 and 2006-2007 school years; and

(2) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in reading or English language arts, as applicable, as determined by averaging the school's assessment instrument results for the 2005-2006 and 2006-2007 school years.

(d) If an eligible entity described by Subsection (a)(1) does not meet the academic performance requirements of Subsections (a)(1)(B) and (C) or Subsection (c), and the entity's open-enrollment charter school is located in a county designated by the Federal Emergency Management Agency as a disaster area that qualified for public assistance due to Hurricane Rita and was closed for 10 or more instructional days between September 21, 2005, and November 3, 2005, the commissioner shall immediately grant a charter under this chapter to the entity on or before August 1, 2008, if:

(1) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in mathematics as determined by averaging the school's assessment instrument results for the 2004-2005 and 2006-2007 school years; and

(2) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in reading or English language arts, as applicable, as determined by averaging the school's assessment instrument results for the 2004-2005 and 2006-2007 school years.

(e) Assessment instrument results for fewer than five students are not considered for purposes of Subsection (a)(1)(B) or (C).

(f) The commissioner shall determine which entities are eligible for a charter under this section as soon as practicable.

(g) The content and terms of a charter granted to an eligible entity under this section must be the same as those under which the entity operated under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2007, except that where the terms conflict with this chapter, this chapter prevails.

(h) An eligible entity holding multiple charters before January 1, 2007, may not combine those charters into one charter for a public charter district but must retain each of those charters. Each charter retained under this subsection counts towards the limit imposed under Section 11A.002(c).

(i) Section 11A.157 does not apply to an entity granted a charter under this section.

(j) A decision of the commissioner under this section is not subject to an appeal to a district court.

(k) This section expires January 1, 2010.

Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

(a) For purposes of Section 11A.1041(a), the commissioner shall compute the percentage of students who performed satisfactorily on an assessment instrument in a manner consistent with this section.

(b) The commissioner may only consider the performance of a student who was enrolled as of the date for reporting enrollment for the fall semester under the Public Education Information Management System (PEIMS). This subsection does not prevent the commissioner from considering the performance of a student who retakes an exit-level assessment instrument under Section 39.023(c) in grade 11 or 12 regardless of whether the student was enrolled as of the date for reporting enrollment for the fall semester.

(c) In computing performance under this section, the commissioner must:

(1) add the results for third through 11th grade assessment instruments in English and third through sixth grade assessment instruments in Spanish across grade levels tested at all campuses operated by the charter holder and evaluate those results for all students;

(2) combine the results for third through ninth grade assessment instruments in reading and 10th and 11th grade assessment instruments in English language arts and evaluate those results as a single subject;

(3) separately determine student performance for reading and mathematics as a percentage equal to the sum of students who performed satisfactorily on the specific subject area assessment instrument in all grade levels tested at all campuses operated by the charter holder divided by the number of students who took the specific subject area assessment instrument in grade levels tested at all campuses operated by the charter holder; and

(4) include the results, as applicable, for a subsequent administration of an exit-level assessment instrument under Section 39.023(c) to a student in grade 11 or 12.

(d) To the extent consistent with this section, the commissioner shall use the methodology used to compute passing rates for reading and mathematics assessment instruments for purposes of determining accountability ratings under Chapter 39 for the 2006-2007 school year.

(e) This section expires January 1, 2010.

Sec. 11A.105. CHARTER GRANTED. Each charter the State Board of Education grants for a public charter district must:

(1) satisfy this chapter; and

(2) include the information that is required under Section 11A.103 consistent with the information provided in the application and any modification the board requires.

Sec. 11A.106. REVISION. (a) A revision of a charter of a public charter district may be made only with the approval of the commissioner.

(b) Not more than once each year, a public charter district may request approval to revise the maximum student enrollment described by the district's charter.

(c) The commissioner may not approve a charter revision that increases a public charter district's enrollment, increases the grade levels offered, increases the number of campuses, or changes the boundaries of the geographic area served by the program unless the commissioner determines that:

(1) the public charter district has operated one or more campuses for at least three school years;

(2) the public charter district is not rated accredited-warned or accredited-probation under Subchapter D, Chapter 39;

(3) each campus operated by the charter holder of the public charter district has been rated at least academically acceptable under Subchapter D, Chapter 39, for each of its most recent three years of operation;

(4) no campus operated by the public charter district has been identified as needing technical assistance under Section 39.1322 for its most recent two years of operation;

(5) the public charter district has been rated superior, above standard, standard, or the equivalent, under the financial accountability system under Subchapter I, Chapter 39; and

(6) the charter revision is in the best interest of students of this state.

(d) In making a determination under Subsection (c)(6), the commissioner shall review all available information relating to the charter holder, including the charter holder's:

(1) academic and financial performance;

(2) history of compliance with applicable laws;

(3) staffing, financial, and organizational data; and

(4) other information regarding the charter holder's capacity to successfully implement the requested charter revision.

(e) The commissioner may not approve a charter revision that proposes an increase in:

(1) a public charter district's enrollment, unless the charter holder adopts a business plan for implementing the enrollment increase that includes components identified by the commissioner; or

(2) the grade levels offered by a public charter district, unless the charter holder adopts an educational plan for the additional grade levels that includes components identified by the commissioner.

(f) The commissioner may approve a charter revision authorizing a public charter district to serve students in a geographical area that is not contiguous with the existing boundaries of the district, but may not approve a statewide geographical boundary.

(g) Subsections (c), (d), and (e) do not apply to a request under Subsection (b) by a public charter district operated by a governmental entity that provides instructional services within a residential detention, treatment, or adjudication facility. This subsection does not otherwise affect the commissioner's authority to grant or deny a request for a charter revision made by an entity to which this subsection applies.

Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) The commissioner may modify, place on probation, or revoke the charter of a public charter district if the commissioner determines under Section 11A.108 that the charter holder:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, welfare, or best interests of the students enrolled at the public charter district; or

(4) failed to comply with this chapter or another applicable law or rule.

(b) The commissioner shall revoke the charter of a public charter district without a hearing if all campuses operated by the public charter district have been ordered closed under Section 39.131(a) or 39.1324(d), (e), or (f).

Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) The commissioner shall adopt a procedure to be used for modifying, placing on probation, or revoking the charter of a public charter district under Section 11A.107(a).

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder.

Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. A charter holder may appeal a modification, placement on probation, or revocation under this subchapter only in the manner provided by the applicable procedures adopted by the commissioner under Section 11A.108. The charter holder may not otherwise appeal to the commissioner and may not appeal to a district court.

Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER. If the commissioner revokes a charter of a public charter district, if a district is ordered closed under Chapter 39, or if a public charter district surrenders its charter, the district may not:

(1) continue to operate under this chapter; or

(2) receive state funds under this chapter.

[Sections 11A.111-11A.150 reserved for expansion]

SUBCHAPTER D. GOVERNING BODIES OF CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT. The governing body of a charter holder is responsible for the management, operation, and accountability of the public charter district, regardless of whether the governing body delegates the governing body's powers and duties to another person.

Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER HOLDER. The governing body of a charter holder must be composed of at least five members.

Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a person may not serve as a member of the governing body of a charter holder, as a member of the governing body of a public charter district, or as an officer or employee of a public charter district if the person:

(1) has been convicted of a felony or a misdemeanor involving moral turpitude;

(2) has been convicted of an offense listed in Section 37.007(a);

(3) has been convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure; or

(4) has a substantial interest in a management company.

(b) A person who has been convicted of an offense described by Subsection (a)(1), (2), or (3) may serve as a member of the governing body of a charter holder, as a member of the governing body of a public charter district, or as an officer or employee of a public charter district if the commissioner determines that the person is fit to serve in that capacity. In making a determination under this subsection, the commissioner shall consider:

(1) the factors described by Section 53.022, Occupations Code, for determining the extent to which a conviction relates to an occupation;

(2) the factors described by Section 53.023, Occupations Code, for determining the fitness of a person to perform the duties and discharge the responsibilities of an occupation; and

(3) other appropriate factors, as determined by the commissioner.

(c) For purposes of Subsection (a)(4), a person has a substantial interest in a management company if the person or a relative within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code:

(1) has a controlling interest in the company;

(2) owns more than 10 percent of the voting interest in the company;

(3) owns more than \$25,000 of the fair market value of the company;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the company;

(5) is a member of the board of directors or other governing body of the company;

(6) serves as an elected officer of the company; or

(7) is an employee of the company.

Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), Chapter 22, Business Organizations Code, or other law, on request of the commissioner, the attorney general shall bring suit against a member of the governing body of a charter holder for breach of a fiduciary duty by the member, including misapplication of public funds.

(b) The attorney general may bring suit under Subsection (a) for:

(1) damages;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies.

Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF CHARTER HOLDER. (a) The commissioner shall adopt rules prescribing training for members of governing bodies of charter holders.

(b) The rules adopted under Subsection (a) may:

(1) specify the minimum amount and frequency of the training;

(2) require the training to be provided by:

(A) the agency and regional education service centers;

(B) entities other than the agency and service centers, subject to approval by the commissioner; or

(C) both the agency, service centers, and other entities; and

(3) require training to be provided concerning:

(A) basic school law, including school finance;

(B) health and safety issues;

(C) accountability requirements related to the use of public funds; and

(D) other requirements relating to accountability to the public, such as

open meetings requirements under Chapter 551, Government Code, and public information requirements under Chapter 552, Government Code.

Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the commissioner a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner.

(b) Each public charter district shall file annually with the commissioner the following information in a form prescribed by the commissioner:

(1) the name, address, and telephone number of each officer and member of the governing body of the charter holder; and

(2) the amount of annual compensation the public charter district pays to each officer and member of the governing body.

Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During a public charter district's first year of operation, the charter holder shall submit quarterly financial reports to the commissioner. The commissioner by rule shall determine the form and content of the financial reports under this section.

Sec. 11A.158. PEIMS INFORMATION. The governing body of a public charter district shall comply with Section 42.006.

Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A management company that provides management services to a public charter district is liable for damages incurred by the state or a school district as a result of the failure of the company to comply with its contractual or other legal obligation to provide services to the district.

(b) On request of the commissioner, the attorney general may bring suit on behalf of the state against a management company liable under Subsection (a) for:

(1) damages, including any state funding received by the company and any consequential damages suffered by the state;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies and does not affect:

(1) the liability of a management company to the charter holder; or

(2) the liability of a charter holder, a member of the governing body of a charter holder, or a member of the governing body of a public charter district to the state.

Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED. (a) The charter holder or the governing body of a public charter district may not accept a loan from a management company that has a contract to provide management services to:

(1) the district; or

(2) another public charter district that operates under a charter granted to the charter holder.

(b) A charter holder or the governing body of a public charter district that accepts a loan from a management company may not enter into a contract with that management company to provide management services to the district.

Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any contract, including a contract renewal, between a public charter district and a management company proposing to provide management services to the district must require the management company to maintain all records related to the management services separately from any other records of the management company.

Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS PROHIBITED. The commissioner may prohibit, deny renewal of, suspend, or revoke a contract between a public charter district and a management company providing management services to the district if the commissioner determines that the management company has:

(1) failed to provide educational or related services in compliance with the company's contractual or other legal obligation to any public charter district in this state or to any other similar entity in another state;

(2) failed to protect the health, safety, or welfare of the students enrolled at a public charter district served by the company;

(3) violated this chapter or a rule adopted under this chapter; or

(4) otherwise failed to comply with any contractual or other legal obligation to provide services to the district.

[Sections 11A.163-11A.200 reserved for expansion]

SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

Sec. 11A.201. STATE FUNDING. (a) To the extent consistent with Subsection (c), a charter holder is entitled to receive for the public charter district funding under Chapter 42 as if the public charter district were a school district without a local share for purposes of Section 42.252 and without any local revenue ("LR") for purposes of Section 42.302. In determining funding for a public charter district, adjustments under Sections 42.102, 42.103, and 42.105 and the district enrichment tax rate ("DTR") under Section 42.302 are based on the average adjustment and average district enrichment tax rate for the state.

(b) To the extent consistent with Subsection (c), a public charter district is entitled to funds that are available to school districts from the agency or the commissioner, including grants and other discretionary funding, unless the statute authorizing the funding explicitly provides that a public charter district is not entitled to the funding.

(c) A charter holder is entitled to receive for a public charter district funding under this section only if the holder:

(1) provides information for the Public Education Information Management System (PEIMS) as required by this chapter;

(2) submits to the commissioner appropriate fiscal and financial records as required by this chapter and the commissioner; and

(3) receives an annual unqualified opinion in the standard audit report filed pursuant to Section 11A.210.

(d) The commissioner shall suspend the funding of a charter holder that fails to comply with Subsection (c) until the commissioner determines that the charter holder is in compliance or has cured any noncompliance and has adopted adequate procedures to prevent future noncompliance.

(e) The commissioner may adopt rules to provide and account for state funding of public charter districts under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to a provision listed in Section 11A.052(b) if the commissioner determines that the rule is related to financing of public charter districts and is necessary or prudent to provide or account for state funds.

Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(b) In accordance with this section, a charter holder is initially eligible for instructional facilities allotments for a campus of a public charter district for which the charter holder has been granted a charter if:

(1) the campus has for the two preceding school years been rated recognized or exemplary under Subchapter D, Chapter 39; and

(2) on the most recent audit of the financial operations of the district conducted pursuant to Section 11A.210, the district has satisfied generally accepted accounting standards of fiscal management as evidenced by an unqualified opinion in the standard audit report issued and filed pursuant to Section 11A.210.

(c) Once a public charter district campus satisfies the initial eligibility requirements under Subsection (b)(1) and receives an allotment under this section, the campus continues to remain eligible until the campus receives an accountability rating of academically acceptable for three consecutive school years under Subchapter D, Chapter 39, at which point the campus is again subject to the eligibility requirements of Subsection (b)(1).

(d) The commissioner annually shall review the eligibility of a public charter district campus for purposes of this section.

(e) Except as otherwise provided by this section, a charter holder that is eligible for an allotment under this section is entitled to an annual allotment in an amount determined by the commissioner, not to exceed \$1,000 or a different amount provided by appropriation, for each student in average daily attendance during the preceding year at a public charter district campus that satisfies the initial eligibility requirements under Subsection (b)(1).

(f) A charter holder who receives funds under this section may use the funds only for a public charter district campus for which the funds were paid under Subsection (e) and only to:

(1) purchase real property on which to construct an instructional facility for the campus;

(2) purchase, lease, construct, expand, or renovate instructional facilities for the campus;

(3) pay debt service in connection with instructional facilities purchased or improved for the campus; or

(4) maintain and operate instructional facilities for the campus.

(g) A decision of the commissioner under Subsection (e) is final and may not be appealed.

(h) The commissioner shall by rule establish procedures to ensure that funds a charter holder claims to be using for purposes of Subsection (f)(3) are used only for that purpose.

Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received under Section 11A.201 or 11A.202 by a charter holder:

(1) are considered to be public funds for all purposes under state law;

(2) are held in trust by the charter holder for the benefit of this state and the students of the public charter district;

(3) may be used only for a purpose for which a school may use local funds under Section 45.105(c) in the case of funds received under Section 11A.201, and may be used only for a purpose specified under Section 11A.202(f) in the case of funds received under Section 11A.202; and

(4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract under Section 11A.204.

(b) Funds deposited under Subsection (a)(4) may be directly deposited into an account controlled by a bond trustee acting for the charter holder pursuant to a bond indenture agreement requiring direct deposit.

(c) The commissioner shall adopt rules for identifying public funds in accordance with Subsection (a).

(d) The commissioner may bring an action in district court in Travis County for injunctive or other relief to enforce this section. In identifying public funds held by a charter holder, the court shall use the criteria adopted by the commissioner under Subsection (c). Except as otherwise provided by this subsection, the court shall enter any order under this subsection concerning public funds held by the charter holder necessary to best serve the interests of the students of a public charter district. In the case of a public charter district that has ceased to operate, the court shall enter any order under this subsection concerning public funds held by the charter holder necessary to best serve the interests of this state.

Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank selected as a school depository for a public charter district and the charter holder shall enter into a depository contract, bond, or other necessary instrument setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education.

(b) The depository bank shall attach to the contract and file with the charter holder a bond in an initial amount equal to the estimated highest daily balance, determined by the charter holder, of all deposits that the charter holder will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the charter holder and must be signed by the depository bank and by a surety company authorized to engage in business in this state. The depository bank shall increase the amount of the bond if the charter holder determines the increase is necessary to adequately protect the funds of the charter holder deposited with the depository bank.

(c) The bond shall be conditioned on:

(1) the faithful performance of all duties and obligations imposed by law on the depository;

(2) the payment on presentation of all checks or drafts on order of the charter holder, in accordance with its orders entered by the charter holder according to law;

(3) the payment on demand of any demand deposit in the depository;

(4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;

(5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and

(6) the faithful paying over to the successor depository all balances remaining in the accounts.

(d) The bond and the surety on the bond must be approved by the charter holder. A premium on the depository bond may not be paid out of charter holder funds related to operation of the public charter district.

(e) The charter holder shall file a copy of the depository contract and bond with the agency.

(f) Instead of the bond required under Subsection (b), the depository bank may deposit or pledge, with the charter holder or with a trustee designated by the charter holder, approved securities, as defined by Section 45.201, in an amount sufficient to adequately protect the funds of the charter holder deposited with the depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the charter holder deposited with the depository bank. The charter holder shall periodically designate the amount of approved securities or the aggregate amount of the bond and approved securities necessary to adequately protect the charter holder. The charter holder may not designate an amount less than the balance of charter holder funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the charter holder. For purposes of this subsection, the approved securities are valued at their market value.

Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter holder who accepts state funds under Section 11A.201 or 11A.202 agrees to be subject to all requirements, prohibitions, and sanctions authorized under this chapter.

Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE FUNDS. (a) Property purchased or leased with funds received by a charter holder under Section 11A.201 or 11A.202:

(1) is considered to be public property for all purposes under state law;

(2) is held in trust by the charter holder for the benefit of this state and the students of the public charter district; and

(3) may be used only for a purpose for which a school district may use school district property.

(b) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of a public charter district that ceases to operate; and

(2) supervise the disposition of the property in accordance with law.

(c) This section does not affect the priority of a security interest in or lien on property established by a creditor in compliance with law if the security interest or lien arose in connection with the sale or lease of the property to the charter holder.

(d) The commissioner shall adopt rules for identifying public property in accordance with Subsection (a).

(e) The commissioner may bring an action in district court in Travis County for injunctive or other relief to enforce this section. In identifying public property held by a charter holder, the court shall use the criteria adopted by the commissioner under Subsection (d). Except as otherwise provided by this subsection, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of the students of a public charter district. In the case of a public charter district that has ceased to operate, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of this state. The court may order title to real or personal public property held by the charter holder transferred to a trust established for the purpose of managing the property or may make other disposition of the property necessary to best serve the interests of this state.

Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER DISTRICT LAND OR FACILITIES. A municipality to which a charter is granted under this chapter may borrow funds, issue obligations, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or facilities and related improvements for its public charter district within the city limits of the municipality in the same manner the municipality is authorized to borrow funds, issue obligations, or otherwise spend its funds in connection with any other public works project.

Sec. 11A.208. TEXTBOOKS; FUNDING FOR TECHNOLOGY. A public charter district is entitled to textbooks under Chapter 31 and funding for technology under Subchapter A, Chapter 32, and is subject to those provisions as if the public charter district were a school district.

Sec. 11A.209. ANNUAL BUDGET. The governing body of a charter holder shall annually adopt a budget for the district.

Sec. 11A.210. ANNUAL AUDIT. The governing body of a charter holder shall conduct an annual audit in a manner that complies with Section 44.008.

Sec. 11A.211. STATE FUNDING UNDER CERTAIN SCHOOL DISTRICT AGREEMENTS. Notwithstanding any other provision of Chapter 41 or 42, and in addition to any other funds to which a school district may be entitled, a school district that enters into an agreement with a charter school operating under a charter granted under this chapter to provide education services to a student enrolled in the school district is entitled to receive the greater of the following amounts of state funding:

(1) the amount the charter school would receive under Section 11A.201 if the student were enrolled in the charter school; or

(2) the amount to which the school district is entitled under Chapters 41 and 42 for the student.

[Sections 11A.212-11A.250 reserved for expansion]

SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by this section, a public charter district may not discriminate in admission policy on the basis of sex, national origin, ethnicity, religion, disability, or academic, artistic, or athletic ability or the district the child would otherwise attend in accordance with this code.

(b) A public charter district is not required to admit a person if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) removal to a disciplinary alternative education program; or

(B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for the conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

(c) A public charter district admission policy may require a student to demonstrate artistic ability if the school specializes in performing arts.

Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to a public charter district campus, the governing body of the district shall:

(1) require the applicant to complete and submit an application not later than a reasonable deadline the district establishes; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) fill the available positions by lottery; or

(B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.

(b) A public charter district may fill applications for admission under Subsection (a)(2)(B) only if the district published a notice of the opportunity to apply for admission to the district. A notice published under this subsection must:

(1) state the application deadline;

(2) be published in a newspaper of general circulation in the community in which the district campus is located not later than the seventh day before the application deadline; and

(3) be made available on the public charter district's Internet website, if available.

(c) A public charter district may exempt an applicant from the requirements of Subsection (a)(2) if the applicant is:

(1) the child or grandchild of a member of the governing body of the charter holder at the time the district's charter was first granted;

(2) the child of an employee of the district or the charter holder; or

(3) a sibling of a student who is enrolled in the district.

(d) A public charter district that specializes in one or more performing arts may require an applicant to audition for admission to the school.

Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided by Subsection (b) or as otherwise determined impracticable by the commissioner, during a public charter district's first year of operation, the district must have a student enrollment of at least 100 and not more than 500 at any time during the school year.

(b) A public charter district may have a student enrollment of less than 100 if approved by the commissioner.

(c) Not later than a public charter district's third year of operation, at least 25 percent of the district's students must be enrolled in one or more grade levels for which assessment instruments are administered under Sections 39.023(a), (c), and (l).

(d) The commissioner may grant a waiver from the requirements of Subsection (c) for a public charter district that opens a campus serving prekindergarten or kindergarten students and agrees to:

(1) add at least one higher grade level class each school year after opening the campus; and

(2) until the campus complies with Subsection (c), adopt accountability measures to assess the performance of the students not assessed under Section 39.023(a).

(e) The commissioner may grant a waiver from the requirements of Subsection (c) for a public charter district that was operating an open-enrollment charter school campus on January 1, 2007, serving prekindergarten, kindergarten, and first, second, and third grade students if the public charter district:

(1) adopts one or more nationally norm-referenced assessment instruments approved by the commissioner;

(2) administers the assessment instruments to its second grade students at intervals and in the manner specified by commissioner rule; and

(3) meets the applicable standards for student performance on the assessment instruments, as determined by commissioner rule.

(f) The commissioner shall adopt rules necessary to implement this section.

Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public charter district may not charge tuition to an eligible student who applies for admission to the district under this chapter.

(b) The governing body of a public charter district may require a student to pay any fee that the board of trustees of a school district may charge under Section 11.158(a). The governing body may not require a student to pay a fee that the board of trustees of a school district may not charge under Section 11.158(b).

Sec. 11A.255. TRANSPORTATION. A public charter district shall provide transportation to each student attending the school to the same extent a school district is required by law to provide transportation to district students.

Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS.

(a) The governing body of a public charter district shall adopt a code of conduct for the district or for each campus in the district.

(b) The code of conduct must include:

(1) standards for student behavior, including the types of prohibited behaviors and the possible consequences of misbehavior; and

(2) the district's due process procedures regarding expulsion of a student.

(c) A final decision of the governing body of a public charter district regarding action taken under the code of conduct may not be appealed.

(d) A public charter district may not expel a student for:

(1) low academic performance; or

(2) a reason that is not authorized by Section 37.007 or specified in the district's code of conduct as conduct that may result in expulsion.

(e) Section 37.002 does not apply to a public charter district except to the extent specified by the governing body of the public charter district in the district's code of conduct.

Sec. 11A.257. IMPROVED LEARNING ENVIRONMENT. A public charter district may, if the district determines that the rule would improve the learning environment at a district campus, adopt a rule that:

(1) requires students at a district campus to wear school uniforms; or

(2) establishes a same-sex campus or classroom.

[Sections 11A.258-11A.300 reserved for expansion]

SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. A person employed as a teacher by a public charter district must hold a baccalaureate degree.

Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE QUALIFICATIONS. (a) Each public charter district shall provide to the parent or guardian of each student enrolled at a campus in the district written notice of the qualifications of each professional employee, including each teacher, employed at the campus.

(b) The notice must include:

(1) any professional or educational degree held by the employee;

(2) a statement of any certification under Subchapter B, Chapter 21, held by the employee; and

(3) any relevant experience of the employee.

Sec. 11A.303. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS. (a) An employee of a public charter district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

(b) For each employee of a public charter district covered under the system, the public charter district is responsible for making any contribution that otherwise would be the legal responsibility of a school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.

Sec. 11A.304. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

(a) This section applies to a charter holder that on January 1, 2006, operated an open-enrollment charter school.

(b) Each school year, using state funds received by the charter holder for that purpose under Subsection (e), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers,

full-time librarians, full-time counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to \$2,500.

(c) Using state funds received by the charter holder for that purpose under Subsection (f), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in average compensation increases as follows:

(1) for full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district, an average increase at least equal to \$500; and

(2) for part-time employees, an average increase at least equal to \$250.

(d) Each school year, using state funds received by the charter holder for that purpose under Subsection (g), a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to \$2,000.

(e) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the charter holder at a public charter district campus.

(f) In addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the sum of:

(1) the product of \$500 multiplied by the number of full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district; and

(2) the product of \$250 multiplied by the number of part-time employees.

(g) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$2,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the charter holder at a public charter district campus.

(h) A payment under this section is in addition to wages the charter holder would otherwise pay the employee during the school year.

[Sections 11A.305-11A.350 reserved for expansion]

SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

Sec. 11A.351. AUDIT. (a) To the extent consistent with this section, the commissioner may audit the records of:

- (1) a public charter district or campus;
- (2) a charter holder; and
- (3) a management company.

(b) An audit under Subsection (a) must be limited to matters directly related to the management or operation of a public charter district, including any financial, student, and administrative records.

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit of a public charter district under this section during any fiscal year, including any audit of financial, student, and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with a public charter district is not considered an audit of the district.

Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a subpoena to compel the attendance and testimony of a witness or the production of materials relevant to an audit or investigation under this chapter.

(b) A subpoena may be issued throughout the state and may be served by any person designated by the commissioner.

(c) If a person fails to comply with a subpoena issued under this section, the commissioner, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which the audit or investigation is conducted. The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

(d) This section expires September 1, 2009.

Sec. 11A.353. SANCTIONS. (a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.131(a), to the extent the commissioner determines necessary, if a public charter district, as determined by a report issued under Section 39.076(b):

- (1) commits a material violation of the district's charter;
- (2) fails to satisfy generally accepted accounting standards of fiscal management; or
- (3) fails to comply with this chapter or another applicable rule or law.

(b) The commissioner may temporarily withhold funding, suspend the authority of a public charter district to operate, or take any other reasonable action the commissioner determines necessary to protect the health, safety, or welfare of students enrolled at a district campus based on evidence that conditions at the district campus present a danger to the health, safety, or welfare of the students.

(c) After the commissioner acts under Subsection (b), the public charter district may not receive funding and may not resume operating until a determination is made that:

(1) despite initial evidence, the conditions at the district campus do not present a danger of material harm to the health, safety, or welfare of students; or

(2) the conditions at the district campus that presented a danger of material harm to the health, safety, or welfare of students have been corrected.

(d) Not later than the third business day after the date the commissioner acts under Subsection (b), the commissioner shall provide the charter holder an opportunity for a hearing. This subsection does not apply to an action taken by the commissioner under Chapter 39.

(e) Immediately after a hearing under Subsection (d), the commissioner must cease the action under Subsection (b) or initiate action under Section 11A.108.

Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The commissioner shall periodically consult with representatives of charter holders regarding the duties and mission of the agency relating to the operation of public charter districts. The commissioner shall determine the frequency of the consultations.

Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing in this chapter limits the commissioner's authority under Chapter 39.

Sec. 11A.356. RULES. The commissioner may adopt rules for the administration of this chapter.

[Sections 11A.357-11A.400 reserved for expansion]

SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

Sec. 11A.401. DEFINITIONS. In this subchapter:

(1) "Blue ribbon charter campus" and "campus" mean the public school formed when an eligible entity is granted a blue ribbon charter under this subchapter.

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

Sec. 11A.402. AUTHORIZATION. (a) In accordance with this subchapter, the commissioner may authorize not more than three charter holders to grant a charter to an eligible entity to operate a blue ribbon charter campus if:

(1) the charter holder proposes to grant the blue ribbon charter to replicate a distinctive education program;

(2) the charter holder has demonstrated the ability to replicate the education program;

(3) the education program has been implemented by the charter holder for at least seven school years; and

(4) the charter school in which the charter holder has implemented the program has been rated recognized or exemplary under Subchapter D, Chapter 39, for at least five school years.

(b) A charter holder that assumed operation of an existing charter school program during the seven years preceding the proposed authorization under Subsection (a) may be authorized to grant a blue ribbon charter under Subsection (a) if:

(1) the performance level of the program at a campus before and after the charter holder assumed operation of the program meets the qualifications described by Subsection (a); and

(2) the charter holder has met the qualifications described by Subsection (a) since assuming operation of the program.

(c) A charter holder may grant a blue ribbon charter only to an eligible entity that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter.

(d) A charter holder may grant not more than two blue ribbon charters under this subchapter.

Sec. 11A.403. APPLICABILITY OF CERTAIN LAWS. (a) A blue ribbon charter campus is considered a public charter district campus for purposes of state and federal law.

(b) A blue ribbon charter granted under this subchapter is not considered for purposes of the limit on the number of public charter districts imposed by Section 11A.002.

Sec. 11A.404. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE RIBBON CHARTER CAMPUS. (a) The governing body of the charter holder authorizing a blue ribbon charter is responsible for the management and operation of the campus operated under a blue ribbon charter. A blue ribbon charter campus is subject to the rules and policies of the governing body of the charter holder that granted the blue ribbon charter.

(b) For purposes of academic and financial accountability and all other purposes under this chapter and Chapter 39, a blue ribbon charter campus is considered a campus of the public charter district operated by the charter holder that granted the blue ribbon charter.

(c) A charter holder is entitled to receive funding for a blue ribbon charter campus as if the blue ribbon charter campus were a campus of the public charter district operated by the charter holder.

Sec. 11A.405. APPLICATION FOR AUTHORIZATION. (a) The commissioner by rule shall adopt an application form and procedures for a charter holder to apply for authorization to grant a blue ribbon charter to an eligible entity under this subchapter.

(b) The application must specify:

(1) the criteria that will be used to grant blue ribbon charters;

(2) procedures for governance and management of campuses operating under a blue ribbon charter; and

(3) the performance standard by which continuation of a blue ribbon charter will be determined.

(c) A determination by the commissioner regarding an application under this section is final and may not be appealed.

Sec. 11A.406. REVOCATION OF AUTHORIZATION. (a) The commissioner may revoke a charter holder's authorization to grant a blue ribbon charter or operate a campus granted a blue ribbon charter if the commissioner determines that the purposes of this subchapter are not being satisfied.

(b) On revocation of a charter holder's authority under this section, the charter holder shall:

(1) operate a campus granted a blue ribbon charter as a standard campus of the charter holder under this chapter; or

(2) close the campus effective at the end of the school year in which the commissioner revokes the authorization.

Sec. 11A.407. CONTENT. (a) Each blue ribbon charter granted under this subchapter must:

(1) describe the educational program to be offered, which may be a general or specialized education program;

(2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B, Chapter 39, and on compliance with other applicable accountability provisions under Chapter 39;

(3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked;

(4) prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

(5) describe the governing structure of the blue ribbon charter campus;

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which the campus and charter holder granting the blue ribbon charter will comply with financial and operational requirements, including requirements related to the Public Education Information Management System (PEIMS) under Section 11A.158 and the audit requirements under Section 11A.210.

(b) A charter holder may reserve the right to approve contracts, governance alterations, personnel decisions, and other matters affecting the operation of the blue ribbon charter campus.

(c) A blue ribbon charter must specify the basis and procedure to be used by the charter holder for placing the blue ribbon charter campus on probation or revoking the charter, which must include an opportunity for an informal review of the blue ribbon charter campus and governing body of the campus by the charter holder. A charter holder's decision to place on probation or revoke a blue ribbon charter is final and may not be appealed.

Sec. 11A.408. FORM. A blue ribbon charter issued under this subchapter must be in the form and substance of a written contract signed by the president or equivalent officer of the governing body of the charter holder granting the blue ribbon charter and the president or equivalent officer of the governing body of the eligible entity to which the blue ribbon charter is granted.

Sec. 11A.409. REVISION. A blue ribbon charter granted under this subchapter may be revised with the approval of the charter holder that granted the charter.

[Sections 11A.410-11A.450 reserved for expansion]

SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER SCHOOLS

Sec. 11A.451. DEFINITIONS. In this subchapter:

(1) "Assets" means:

(A) public funds, as determined under Section 12.107, as that section existed on January 1, 2007; and

(B) public property, as determined under Section 12.128, as that section existed on January 1, 2007.

(2) "Records" means government records, as determined under Section 12.1052, as that section existed on January 1, 2007.

Sec. 11A.452. APPLICABILITY. The commissioner shall appoint a receiver under this subchapter for each open-enrollment charter school that on April 1, 2007, was operating under a charter issued under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2007, and:

(1) is not authorized to operate as a public charter district under this chapter;

or

(2) elects not to operate as a public charter district under this chapter.

Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a) The commissioner shall appoint a receiver to protect the assets and direct the dissolution of open-enrollment charter schools subject to this subchapter.

(b) The receiver shall execute a bond in an amount set by the commissioner to ensure the proper performance of the receiver's duties.

(c) Until discharged by the commissioner, the receiver shall perform the duties that the commissioner directs to preserve the assets and direct the dissolution of the open-enrollment charter school under this subchapter.

Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After appointment and execution of bond under Section 11A.453, the receiver shall take possession of:

(1) assets and records in the possession of the open-enrollment charter school specified by the commissioner; and

(2) any Foundation School Program funds and any other public funds received by the school's charter holder.

(b) On request of the receiver, the attorney general shall file a suit for attachment, garnishment, or involuntary bankruptcy and take any other action necessary for the dissolution of an open-enrollment charter school under this subchapter.

(c) If the charter holder of an open-enrollment charter school or an officer or employee of such a school refuses to transfer school assets or records to a receiver under this subsection, the receiver may ask the attorney general to petition a court for recovery of the assets or records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

(d) A record described by this section is a public school record for purposes of Section 37.10(c)(2), Penal Code.

Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall wind up the affairs of an open-enrollment charter school and, except as provided by Subsection (b), reduce its assets to cash for the purpose of discharging all existing liabilities and obligations of the school. In winding up the affairs of a school, the receiver shall cooperate in any bankruptcy proceeding affecting the school. The receiver shall distribute any remaining balance to the commissioner.

(b) A receiver shall offer free of charge any equipment and supplies of an open-enrollment charter school dissolved under this subchapter to school districts, giving priority to districts based on the percentage of the charter school's students that reside in the districts.

(c) The commissioner shall use money in the foundation school fund and money received under this section to pay the costs described by Section 11A.458 and discharge liabilities and obligations of open-enrollment charter schools under this subchapter. The commissioner shall deposit any remaining balance in the foundation school fund.

Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of an open-enrollment charter school subject to this subchapter shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. The commissioner may designate any appropriate entity to serve as custodian of records, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner shall ensure that the transferred records, including student and personnel records, are transferred to a custodian capable of:

- (1) maintaining the records;
- (2) making the records readily accessible to students, parents, former school employees, and other persons entitled to access; and
- (3) complying with applicable state or federal law restricting access to the records.

(b) The commissioner is entitled to access to any records transferred to a custodian under this section as the commissioner determines necessary for auditing, investigative, or monitoring purposes.

Sec. 11A.457. LIABILITY. A receiver is not personally liable for actions taken by the receiver under this subchapter.

Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may authorize reimbursement of reasonable costs related to the receivership, including:

- (1) payment of fees to the receiver for the receiver's services; and
- (2) payment of fees to attorneys, accountants, or any other person that provides goods or services necessary to the operation of the receivership.

Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The competitive bidding requirements of this code and the contracting requirements of Chapter 2155, Government Code, do not apply to the appointment of a receiver, attorney, accountant, or other person appointed under this subchapter.

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1058 to read as follows:

Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT PROVISIONS. (a) An open-enrollment charter school is subject to Sections 11A.201, 11A.204, 11A.205, 11A.206, and 11A.210.

(b) The commissioner may bring an action for injunctive or other relief as provided by Section 11A.203(d) to enforce Section 12.107.

(c) For purposes of this section, a reference in a law described by this section to a public charter district means an open-enrollment charter school.

SECTION _____. Subchapter E, Chapter 12, Education Code, is amended by amending Sections 12.151, 12.152, and 12.156 and adding Section 12.157 to read as follows:

Sec. 12.151. DEFINITIONS [~~DEFINITION~~]. In this subchapter, "institution of higher education" and "public senior college or university" have [~~has~~] the meanings [~~meaning~~] assigned by Section 61.003.

Sec. 12.152. AUTHORIZATION. ~~(a)~~ In accordance with this subchapter and Chapter 11A ~~[Subchapter D]~~, the State Board of Education may grant a charter on the application of a public senior college or university for a public ~~[an open enrollment]~~ charter district [school] to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located.

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Chapter 11A [Subchapter D] applies to a college or university charter school as though the college or university charter school were granted a charter under that chapter [subchapter].

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of public [open enrollment] charter districts [schools] imposed by Section 11A.002 [12.101(b)].

(c) A college or university charter school is not subject to a prohibition, restriction, or requirement relating to:

(1) open meetings and public information under Section 11A.053;

(2) maintenance of records under Section 11A.054;

(3) purchasing and contracting under Section 11A.055;

(4) conflict of interest under Section 11A.056;

(5) nepotism under Section 11A.057;

(6) composition of a governing body under Section 11A.152;

(7) restrictions on serving as a member of a governing body or as an officer or employee under Section 11A.153;

(8) liability of members of a governing body under Section 11A.154;

(9) training for members of a governing body under Section 11A.155;

(10) bylaws and annual reports under Section 11A.156;

(11) quarterly financial reports under Section 11A.157; and

(12) depository bond and security requirements under Section 11A.204.

(d) A college or university charter school and the governing body of the school are subject to regulations and procedures that govern a public senior college or university relating to open meetings, records retention, purchasing, contracting, conflicts of interest, and nepotism.

Sec. 12.157. ADVANCED TECHNICAL ACADEMIES. (a) A college or university charter school may operate as an advanced technical academy. The school's educational program must:

(1) focus on advanced career and technology education;

(2) provide for a course of study that enables a participating student to combine high school courses and college-level courses during grade levels nine through 12;

(3) allow a participating student to complete high school and, on or before the fifth anniversary of the date of the student's first day of high school, receive a high school diploma and either:

(A) an associate's degree or a certificate for a trade or occupation; or

(B) at least 60 semester credit hours toward a baccalaureate degree;

(4) include articulation agreements with other institutions of higher education to provide a participating student access to postsecondary educational and training opportunities at the institution of higher education;

(5) provide a participating student flexibility in class scheduling and academic mentoring;

(6) include input from employers in the program's design; and

(7) incorporate partnerships with one or more of the following to provide paid internship opportunities for a participating student:

(A) local chambers of commerce;

(B) local employers;

(C) the Texas Workforce Commission through local workforce development boards; and

(D) members of an industry cluster identified under Section 481.0295, Government Code.

(b) Each articulation agreement under Subsection (a)(4) must address:

(1) curriculum alignment;

(2) instructional materials;

(3) the instructional calendar;

(4) courses of study;

(5) eligibility of students for higher education financial assistance;

(6) student enrollment and attendance;

(7) grading periods and policies; and

(8) administration of statewide assessment instruments under Subchapter B,

Chapter 39.

(c) The P-16 Council established under Section 61.076 shall provide guidance in case of any conflict that arises between parties to an articulation agreement under Subsection (a)(4).

(d) A college or university charter school operating as an advanced technical academy under this section is entitled to receive funding under Section 11A.201 in proportion to the amount of time spent by the student on courses for which the student will receive credit toward a high school diploma, in accordance with rules adopted by the commissioner, while completing the course of study established by the applicable articulation agreement under Subsection (a)(4).

SECTION _____. Section 5.001, Education Code, is amended by adding Subdivision (5-a) and amending Subdivision (6) to read as follows:

(5-a) "Public charter campus" means a campus operated by a public charter district.

(6) "Public charter district [~~Open enrollment charter school~~]" means a public school authorized by [~~that has been granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION _____. Section 7.003, Education Code, is amended to read as follows:

Sec. 7.003. LIMITATION ON AUTHORITY. An educational function not specifically delegated to the agency or the board under this code is reserved to and shall be performed by school districts or [~~open enrollment~~] charter schools.

SECTION _____. Subsections (b) and (d), Section 7.010, Education Code, are amended to read as follows:

(b) Each school district, public charter district [~~open enrollment charter school~~], and institution of higher education shall participate in an electronic student records system that satisfies standards approved by the commissioner of education and the commissioner of higher education.

(d) The commissioner of education or the commissioner of higher education may solicit and accept grant funds to maintain the electronic student records system and to make the system available to school districts, public charter districts [~~open enrollment charter schools~~], and institutions of higher education.

SECTION _____. Subsection (b), Section 7.028, Education Code, is amended to read as follows:

(b) The board of trustees of a school district or the governing body of a public charter district [~~an open enrollment charter school~~] has primary responsibility for ensuring that the district [~~or school~~] complies with all applicable requirements of state educational programs.

SECTION _____. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.029 to read as follows:

Sec. 7.029. STUDY OF DROPOUT RECOVERY CHARTER SCHOOLS.

(a) The agency shall:

(1) study innovative dropout recovery charter schools in this state and other states; and

(2) prepare a report regarding the findings of the study.

(b) The report required under Subsection (a) must:

(1) identify any highly effective dropout recovery charter schools;

(2) identify the areas of the state with the highest number of students identified as at risk of dropping out of school, as defined by Section 29.081(d), and establish locations where dropout recovery charter schools will have the greatest impact on recovering dropouts in those areas;

(3) identify possible incentives for public charter districts and campuses that enroll dropouts;

(4) identify possible incentives for businesses that cooperate with public charter districts to establish opportunities for employment, including internship programs, for students enrolled in a dropout recovery charter school;

(5) identify persons involved in dropout recovery programs and what those persons determine are key components of an effective dropout recovery program;

(6) provide results of the effectiveness of the following on the success of a dropout recovery program:

(A) open entry and exit into and out of the program, with a student able to master course curriculum at the student's pace;

(B) flexible scheduling and a year-round program;

(C) teachers trained to handle the academic and emotional needs of the student;

(D) a career-oriented course curriculum with a focus on the practical application of the curriculum;

(E) a clear code of student conduct and consistent enforcement of the rules of that code;

(F) extensive support services offered for the health and welfare of the student;

(G) employment opportunities arranged through the program for the benefit of the student's schedule; and

(H) multiple options for a student to choose in tailoring the program to the needs of the student; and

(7) recommend legislation or other actions necessary to implement a dropout recovery charter school pilot program in the areas of the state with the highest number of students identified as at risk of dropping out of school and in other areas determined by the agency to have a need for the program.

(c) Not later than December 1, 2008, the agency shall deliver the report produced under Subsection (a) to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education.

(d) This section expires January 1, 2009.

SECTION _____. Subdivision (17), Subsection (b), Section 7.055, Education Code, is amended to read as follows:

(17) The commissioner shall distribute funds to public charter districts [~~open enrollment charter schools~~] as required under Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION _____. Subdivision (9), Subsection (c), Section 7.102, Education Code, is amended to read as follows:

(9) The board may grant a charter for a public charter district [~~an open enrollment charter or approve a charter revision~~] as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION _____. Subsection (e), Section 11.003, Education Code, is amended to read as follows:

(e) The commissioner may require a public charter district [~~an open enrollment charter school~~] to enter into a cooperative shared services arrangement for administrative services if the commissioner determines, after an audit conducted under Section 11A.351 [~~42.1163~~], that such a cooperative shared services arrangement would promote the efficient operation of the district [~~school~~].

SECTION _____. Section 12.002, Education Code, is amended to read as follows:

Sec. 12.002. CLASSES OF CHARTER. The classes of charter under this chapter are:

- (1) a home-rule school district charter as provided by Subchapter B;
- (2) a campus or campus program charter as provided by Subchapter C; or
- (3) a college or university [~~an open enrollment~~] charter as provided by Subchapter E [~~D~~].

SECTION _____. Subsections (b) and (c), Section 21.058, Education Code, are amended to read as follows:

(b) Notwithstanding Section 21.041(b)(7), not later than the fifth day after the date the board receives notice under Article 42.018, Code of Criminal Procedure, of the conviction of a person who holds a certificate under this subchapter, the board shall:

(1) revoke the certificate held by the person; and
(2) provide to the person and to any school district or public charter district [~~open enrollment charter school~~] employing the person at the time of revocation written notice of:

(A) the revocation; and

(B) the basis for the revocation.

(c) A school district or public charter district [~~open enrollment charter school~~] that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:

(1) immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) as soon as practicable, terminate the employment of the person in accordance with the person's contract and with this subchapter.

SECTION _____. Subsection (b), Section 21.652, Education Code, is amended to read as follows:

(b) In adopting rules under this section, the commissioner shall include rules governing eligibility for and participation by a public charter district [~~an open enrollment charter school~~] in the program.

SECTION _____. Subsection (c), Section 21.702, Education Code, is amended to read as follows:

(c) In adopting rules under this section, the commissioner shall include rules governing eligibility for and participation by a public charter district [~~an open enrollment charter school~~] in the program.

SECTION _____. Subsections (b) and (c), Section 22.083, Education Code, are amended to read as follows:

(b) A public charter district [~~An open enrollment charter school~~] shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person whom the district [~~school~~] intends to employ in any capacity;
or

(2) a person who has indicated, in writing, an intention to serve as a volunteer with the district [~~school~~].

(c) A school district, public charter district [~~open enrollment charter school~~], private school, regional education service center, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a volunteer or employee of the district, school, service center, or shared services arrangement; or

(2) an employee of or applicant for employment by a person that contracts with the district, school, service center, or shared services arrangement to provide services, if:

(A) the employee or applicant has or will have continuing duties related to the contracted services; and

(B) the duties are or will be performed on school property or at another location where students are regularly present.

SECTION _____. Section 22.084, Education Code, is amended to read as follows:

Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided by Subsections (c) and (d), a school district, public charter district [~~open enrollment charter school~~], private school, regional education service center, or shared services arrangement that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

- (1) a person employed by the person as a bus driver; or
- (2) a person the person intends to employ as a bus driver.

(b) Except as provided by Subsections (c) and (d), a person that contracts with a school district, public charter district [~~open enrollment charter school~~], private school, regional education service center, or shared services arrangement to provide transportation services shall submit to the district, school, service center, or shared services arrangement the name and other identification data required to obtain criminal history record information of each person described by Subsection (a). If the district, school, service center, or shared services arrangement obtains information that a person described by Subsection (a) has been convicted of a felony or a misdemeanor involving moral turpitude, the district, school, service center, or shared services arrangement shall inform the chief personnel officer of the person with whom the district, school, service center, or shared services arrangement has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the public charter district [~~open enrollment charter school~~], or the chief executive officer of the private school or shared services arrangement.

(c) A commercial transportation company that contracts with a school district, public charter district [~~open enrollment charter school~~], private school, regional education service center, or shared services arrangement to provide transportation services may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

- (1) a person employed by the commercial transportation company as a bus driver, bus monitor, or bus aide; or
- (2) a person the commercial transportation company intends to employ as a bus driver, bus monitor, or bus aide.

(d) If the commercial transportation company obtains information that a person employed or to be employed by the company has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the public charter district [~~open enrollment charter school~~], or the chief executive officer of the private school or shared services arrangement. Subsections (a) and (b) do not apply if information is obtained as provided by Subsection (c).

SECTION _____. Subdivision (3), Section 22.101, Education Code, is amended to read as follows:

(3) "Participating charter school" means a public charter district [~~an open enrollment charter school~~] established under Chapter 11A [~~Subchapter D, Chapter 12,~~] that participates in the program established under Chapter 1579, Insurance Code.

SECTION _____. Section 25.088, Education Code, is amended to read as follows:

Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school attendance officer may be selected by:

- (1) the county school trustees of any county;
- (2) the board of trustees of any school district or the boards of trustees of two or more school districts jointly; or
- (3) the governing body of a public charter district [~~an open enrollment charter school~~].

SECTION _____. Subsection (a), Section 25.089, Education Code, is amended to read as follows:

(a) An attendance officer may be compensated from the funds of the county, independent school district, or public charter district [~~open enrollment charter school~~], as applicable.

SECTION _____. Subsection (b), Section 25.090, Education Code, is amended to read as follows:

(b) If the governing body of a public charter district [~~an open enrollment charter school~~] has not selected an attendance officer for a district campus, the duties of attendance officer shall be performed by the peace officers of the county in which the campus [~~school~~] is located.

SECTION _____. Subsections (d) and (e), Section 25.093, Education Code, are amended to read as follows:

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

- (A) the school district in which the child attends school;
- (B) the public charter district [~~open enrollment charter school~~] the child attends; or
- (C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or public charter district [~~open enrollment charter school~~], as applicable.

SECTION _____. Subsections (a) and (b), Section 25.095, Education Code, are amended to read as follows:

(a) A school district or public charter district [~~open-enrollment charter school~~] shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to prosecution under Section 25.094 or to referral to a juvenile court in a county with a population of less than 100,000 for conduct that violates that section.

(b) A school district or public charter district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the parent is subject to prosecution under Section 25.093; and

(2) request a conference between school officials and the parent to discuss the absences.

SECTION _____. Subsections (a) and (b), Section 25.0951, Education Code, are amended to read as follows:

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district or public charter district shall within seven school days of the student's last absence:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district or public charter district may:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION _____. Subsections (a), (c), (d), and (e), Section 26.0085, Education Code, are amended to read as follows:

(a) A school district or public charter district [~~open-enrollment charter school~~] that seeks to withhold information from a parent who has requested public information relating to the parent's child under Chapter 552, Government Code, and that files suit as described by Section 552.324, Government Code, to challenge a decision by the attorney general issued under Subchapter G, Chapter 552,

Government Code, must bring the suit not later than the 30th calendar day after the date the [school] district [~~or open enrollment charter school~~] receives the decision of the attorney general being challenged.

(c) Notwithstanding any other law, a school district or public charter district [~~open enrollment charter school~~] may not appeal the decision of a court in a suit filed under Subsection (a). This subsection does not affect the right of a parent to appeal the decision.

(d) If the school district or public charter district [~~open enrollment charter school~~] does not bring suit within the period established by Subsection (a), the [school] district [~~or open enrollment charter school~~] shall comply with the decision of the attorney general.

(e) A school district or public charter district [~~open enrollment charter school~~] that receives a request from a parent for public information relating to the parent's child shall comply with Chapter 552, Government Code. If an earlier deadline for bringing suit is established under Chapter 552, Government Code, Subsection (a) does not apply. This section does not affect the earlier deadline for purposes of Section 552.353(b)(3), Government Code, [532.353(b)(3)] for a suit brought by an officer for public information.

SECTION _____. Subsection (j), Section 28.0211, Education Code, is amended to read as follows:

(j) A school district [~~or open enrollment charter school~~] shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.

SECTION _____. Subsection (f), Section 29.010, Education Code, is amended to read as follows:

(f) This section does not create an obligation for or impose a requirement on a school district [~~or open enrollment charter school~~] that is not also created or imposed under another state law or a federal law.

SECTION _____. Subsections (a) and (c), Section 29.012, Education Code, are amended to read as follows:

(a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is a public charter district [~~an open enrollment charter school~~]; or

(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the public charter district campus [~~open enrollment charter school~~] in which the facility is located.

SECTION _____. Subsections (c), (d), and (e), Section 29.062, Education Code, are amended to read as follows:

(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district [~~or open enrollment charter school~~] and to the division of accreditation.

(d) The agency shall notify a school district [~~or open enrollment charter school~~] found in noncompliance in writing, not later than the 30th day after the date of the on-site monitoring. The district [~~or open enrollment charter school~~] shall take immediate corrective action.

(e) If a school district [~~or open enrollment charter school~~] fails to satisfy appropriate standards adopted by the commissioner for purposes of Subsection (a), the agency shall apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both.

SECTION _____. Subsections (a), (b), (b-1), (c), (e), (k), and (l), Section 29.087, Education Code, are amended to read as follows:

(a) The agency shall develop a process by which a school district or public charter district [~~open enrollment charter school~~] may apply to the commissioner for authority to operate a program to prepare eligible students to take a high school equivalency examination.

(b) Any school district or public charter district [~~open enrollment charter school~~] may apply for authorization to operate a program under this section. As part of the application process, the commissioner shall require a district [~~or school~~] to provide information regarding the operation of any similar program during the preceding five years.

(b-1) A school district or public charter district [~~open enrollment charter school~~] authorized by the commissioner on or before August 31, 2003, to operate a program under this section may continue to operate that program in accordance with this section.

(c) A school district or public charter district [~~open enrollment charter school~~] may not increase enrollment of students in a program authorized by this section by more than five percent of the number of students enrolled in the similar program operated by the district [~~or school~~] during the 2000-2001 school year.

(e) A school district or public charter district [~~open enrollment charter school~~] shall inform each student who has completed a program authorized by this section of the time and place at which the student may take the high school equivalency examination. Notwithstanding any provision of this section, a student may not take the high school equivalency examination except as authorized by Section 7.111.

(k) The board of trustees of a school district or the governing body [~~board~~] of a public charter district [~~an open enrollment charter school~~] shall:

(1) hold a public hearing concerning the proposed application of the district [~~or school~~] before applying to operate a program authorized by this section; and

(2) subsequently hold a public hearing annually to review the performance of the program.

(l) The commissioner may revoke a school district's or public charter district's [~~open enrollment charter school's~~] authorization under this section after consideration of relevant factors, including performance of students participating in the district's [~~or school's~~] program on assessment instruments required under Chapter 39, the percentage of students participating in the district's [~~or school's~~] program who

complete the program and perform successfully on the high school equivalency examination, and other criteria adopted by the commissioner. A decision by the commissioner under this subsection is final and may not be appealed.

SECTION _____. Subsections (a) through (d), (i), and (j), Section 29.155, Education Code, are amended to read as follows:

(a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts and public charter districts [~~open enrollment charter schools~~] to implement or expand kindergarten and prekindergarten programs by:

(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or

(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.

(b) A school district or public charter district [~~open enrollment charter school~~] may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district or public charter district [~~open enrollment charter school~~] must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to school districts and public charter districts [~~open enrollment charter schools~~] in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(i) In carrying out the purposes of Subsection (g), a school district or public charter district [~~open enrollment charter school~~] may use funds granted to the district [~~or school~~] under this section [~~subsection~~] in contracting with another entity, including a private entity.

(j) If a school district or public charter district [~~open enrollment charter school~~] returns to the commissioner funds granted under this section, the commissioner may grant those funds to another entity, including a private entity, for the purposes of Subsection (g).

SECTION _____. Subsection (b), Section 29.905, Education Code, is amended to read as follows:

(b) The agency shall make the program available to a school on the request of the board of trustees of [~~or~~] the school district of which the school is a part, or if the school is a public charter district [~~an open enrollment charter school~~], on the request of the governing body of the district [~~school~~].

SECTION _____. Subchapter C, Chapter 32, Education Code, is amended by adding Section 32.1011 to read as follows:

Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS. This subchapter applies to a public charter district as if the public charter district were a school district.

SECTION _____. Sections 32.102 through 32.106, Education Code, are amended to read as follows:

Sec. 32.102. AUTHORITY. (a) As provided by this subchapter, a school district [~~or open enrollment charter school~~] may transfer to a student enrolled in the district [~~or school~~]:

(1) any data processing equipment donated to the district [~~or school~~], including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.128, Government Code;

(2) any equipment purchased by the district [~~or school~~], to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district [~~or school~~].

(b) A school district [~~or open enrollment charter school~~] may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is eligible to receive data processing equipment under this subchapter only if the student does not otherwise have home access to data processing equipment, as determined by the student's school district [~~or open enrollment charter school~~].

(b) In transferring data processing equipment to students, a school district [~~or open enrollment charter school~~] shall give preference to educationally disadvantaged students.

Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before transferring data processing equipment to a student, a school district [~~or open enrollment charter school~~] must:

(1) adopt rules governing transfers under this subchapter, including provisions for technical assistance to the student by the district [~~or school~~];

(2) determine that the transfer serves a public purpose and benefits the district [~~or school~~]; and

(3) remove from the equipment any offensive, confidential, or proprietary information, as determined by the district [~~or school~~].

Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school district [~~or open enrollment charter school~~] may spend public funds to:

(1) purchase, refurbish, or repair any data processing equipment transferred to a student under this subchapter; and

(2) store, transport, or transfer data processing equipment under this subchapter.

Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided by Subsection (b), a student who receives data processing equipment from a school district [~~or open enrollment charter school~~] under this subchapter shall return the equipment to the district [~~or school~~] not later than the earliest of:

(1) five years after the date the student receives the equipment;

(2) the date the student graduates;

(3) the date the student transfers to another school district [~~or open enrollment charter school~~]; or

(4) the date the student withdraws from school.

(b) Subsection (a) does not apply if, at the time the student is required to return the data processing equipment under that subsection, the district [~~or school~~] determines that the equipment has no marketable value.

SECTION _____. Section 33.007, Education Code, is amended to read as follows:

Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a) Each counselor at an elementary, middle, or junior high school, including a public charter district [~~an open enrollment charter school~~] offering those grades, shall advise students and their parents or guardians regarding the importance of higher education, coursework designed to prepare students for higher education, and financial aid availability and requirements.

(b) During the first school year a student is enrolled in a high school or at the high school level in a public charter district [~~an open enrollment charter school~~], and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must include information regarding:

(1) the importance of higher education;

(2) the advantages of completing the recommended or advanced high school program adopted under Section 28.025(a);

(3) the disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;

(4) financial aid eligibility;

(5) instruction on how to apply for federal financial aid;

(6) the center for financial aid information established under Section 61.0776;

(7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(8) the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999~~].

SECTION _____. Section 33.901, Education Code, is amended to read as follows:

Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of the students enrolled in one or more schools in a school district or enrolled in a public charter district campus [~~an open enrollment charter school~~] are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing body of the district [~~or the open enrollment charter school~~] shall participate in the program and make the benefits of the program available to all eligible students in the schools or campus [~~school~~].

SECTION _____. Subsection (e), Section 37.007, Education Code, is amended to read as follows:

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or public charter district [~~open enrollment charter school~~], shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

SECTION _____. Subsection (j), Section 37.008, Education Code, is amended to read as follows:

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A school district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by a public charter district [~~an open enrollment charter school~~] under Section 11A.256 [~~12.134~~] and the public charter district [~~school~~] provides to the school district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the school district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the school district in which the student is enrolling.

SECTION _____. Subdivision (2), Subsection (a), Section 37.022, Education Code, is amended to read as follows:

(2) "District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or a public charter district [~~an open enrollment charter school~~].

SECTION _____. Section 39.051, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who in the prior year attended an academically unacceptable charter school that was dissolved in accordance with Subchapter J, Chapter 11A. The results of assessment instruments required under this chapter and administered within one year of the student's enrollment in a school district shall not be used as indicators for a campus or school district that the student attends.

SECTION _____. Subsection (c), Section 39.072, Education Code, is amended to read as follows:

(c) The agency shall evaluate against state standards and shall, not later than August 1 of each year, report the performance of each campus in a district and each public charter district [~~open enrollment charter school~~] on the basis of the campus's performance on the indicators adopted under Sections 39.051(b)(1) through (8). Consideration of the effectiveness of district programs under Subsection (b)(2) or (3) must be based on data collected through the Public Education Information Management System for purposes of accountability under this chapter and include the results of assessments required under Section 39.023.

SECTION _____. Subsections (c) and (d), Section 39.114, Education Code, are amended to read as follows:

(c) A public charter district [~~An open enrollment charter school~~] is entitled to an allotment under this section in the same manner as a school district.

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to a public charter district [~~an open enrollment charter school~~].

SECTION _____. Subsection (a), Section 39.131, Education Code, is amended to read as follows:

(a) If a school district does not satisfy the accreditation criteria under Section 39.071, the academic performance standards under Section 39.072, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

- (1) issue public notice of the deficiency to the board of trustees;
- (2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve;

- (3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the district's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of unacceptable performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, is rated academically unacceptable, or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has been rated academically unacceptable, or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or public charter district [~~open enrollment charter school~~], order closure of all programs operated under the district's [~~or school's~~] charter; or

(11) if a district has been rated academically unacceptable for two consecutive school years, including the current school year, due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

SECTION _____. Section 39.1321, Education Code, is amended to read as follows:

Sec. 39.1321. SANCTIONS FOR PUBLIC CHARTER DISTRICTS [~~CHARTER SCHOOLS~~]. (a) Sanctions authorized under this chapter for a school district or campus, including the provision of technical assistance and campus intervention teams, apply in the same manner to a public charter district [~~an open enrollment charter school~~].

(b) The commissioner shall adopt rules to implement procedures to impose any sanction provision under this chapter as those provisions relate to public charter districts [~~open enrollment charter schools~~].

(c) In adopting rules under this section, the commissioner shall require that the charter of a public charter district [~~an open enrollment charter school~~]:

(1) be automatically revoked if the district [~~charter school~~] is ordered closed under this chapter; and

(2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.

(d) If sanctions are imposed on a public charter district [~~an open enrollment charter school~~] under the procedures provided by this chapter, the district [~~a charter school~~] is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION _____. Subsection (a), Section 39.182, Education Code, is amended to read as follows:

(a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

(3) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(4) a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(5) a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(6) an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(7) a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(8) a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D);

(9) a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate;

(10) a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less for the 1997-1998 school year;

(11) a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained; and

(B) the performance of retained students on assessment instruments required under Section 39.023(a);

(12) information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008;

(13) a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(14) an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(15) a description of all funds received by and each activity and expenditure of the agency;

(16) a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071;

(17) a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.112;

(18) a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements;

(19) a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions;

(20) a comparison of the performance of public charter districts [~~open enrollment charter schools~~] and school districts on the academic excellence indicators specified in Section 39.051(b) and accountability measures adopted under Section 39.051(g), with a separately aggregated comparison of the performance of public charter districts [~~open enrollment charter schools~~] predominantly serving students at risk of dropping out of school, as defined by Section 29.081(d), with the performance of school districts;

(21) a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district; and

(22) any additional information considered important by the commissioner or the State Board of Education.

SECTION _____. Subsections (a), (c), and (e), Section 39.301, Education Code, are amended to read as follows:

(a) The commissioner by rule shall provide a process for a school district or public charter district [~~open enrollment charter school~~] to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district [~~or school~~].

(c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or public charter district [~~open enrollment charter school~~] challenging the agency decision.

(e) A school district or public charter district [~~open enrollment charter school~~] may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district [~~or school~~] has had an opportunity to challenge the decision under this section.

SECTION _____. Subsection (a), Section 39.302, Education Code, is amended to read as follows:

(a) A school district or public charter district [~~open enrollment charter school~~] that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus [~~or the charter school~~] or to pursue alternative

management of a district campus [~~or the charter school~~] must appeal the decision under the procedures provided for a contested case under Chapter 2001, Government Code.

SECTION _____. Section 46.012, Education Code, is amended to read as follows:

Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS [~~OPEN ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An open enrollment charter school~~] is not entitled to an allotment under this subchapter.

SECTION _____. Section 46.036, Education Code, is amended to read as follows:

Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS [~~OPEN ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An open enrollment charter school~~] is not entitled to an allotment under this subchapter.

SECTION _____. The heading to Section 53.351, Education Code, is amended to read as follows:

Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN ENROLLMENT~~] CHARTER SCHOOL FACILITIES.

SECTION _____. Subsections (a) and (c) through (g), Section 53.351, Education Code, are amended to read as follows:

(a) The Texas Public Finance Authority shall establish a nonprofit corporation to issue revenue bonds on behalf of authorized [~~open enrollment~~] charter schools for the acquisition, construction, repair, or renovation of educational facilities of those schools.

(c) The corporation has all powers granted under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the purpose of aiding authorized [~~open enrollment~~] charter schools in providing educational facilities. The corporation may make expenditures from the fund described by Subsection (e) and may solicit and accept grants for deposit into the fund. In addition, Sections 53.131, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and govern the corporation and its procedures and bonds.

(d) The corporation shall adopt rules governing the issuance of bonds on behalf of an authorized [~~open enrollment~~] charter school.

(e) The comptroller shall establish a fund dedicated to the credit enhancement of bonds issued by any issuer that issues bonds under this subchapter on behalf of an authorized charter school [~~under this section~~]. The fund may receive donations. The obligation of the fund is limited to an amount equal to the balance of the fund.

(f) A revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized [~~open enrollment~~] charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(g) An educational facility financed in whole or in part under this section is exempt from taxation if the facility:

- (1) is owned by an authorized ~~[open enrollment]~~ charter school;
- (2) is held for the exclusive benefit of the school; and
- (3) is held for the exclusive use of the students, faculty, and staff members of the school.

SECTION _____. Subsection (c), Section 411.097, Government Code, is amended to read as follows:

(c) A public charter district ~~[An open enrollment charter school]~~ is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a member of the governing body of the public charter district ~~[school]~~, as defined by Section 11A.001 ~~[12.1012]~~, Education Code; or

(2) has agreed to serve as a member of the governing body of the public charter district ~~[school]~~.

SECTION _____. Subsections (a) and (b), Section 2175.128, Government Code, are amended to read as follows:

(a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.125 or 2175.184, the state agency shall transfer the equipment to:

(1) a school district or public charter district ~~[open enrollment charter school]~~ in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district or public charter district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or public charter district ~~[open enrollment charter school]~~ in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district or public charter district; or

(3) the Texas Department of Criminal Justice.

SECTION _____. Subsection (a), Section 2306.630, Government Code, is amended to read as follows:

(a) Subject to Subsection (b), the following entities may apply to receive a grant for an eligible project under this subchapter:

(1) a private, nonprofit, tax-exempt organization listed in Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

(2) a public agency that operates a community-based youth employment training program;

(3) a community housing development organization certified by the state;

(4) an educational facility approved by the Texas Youth Commission;

(5) a corps-based community service organization;

(6) a public charter district [~~an open enrollment charter school~~] approved by the State Board of Education [~~Texas Education Agency~~]; or

(7) another entity authorized by board rule.

SECTION _____. Subdivision (6), Section 1575.002, Insurance Code, is amended to read as follows:

(6) "Public school" means:

(A) a school district;

(B) another educational district whose employees are members of the Teacher Retirement System of Texas;

(C) a regional education service center established under Chapter 8, Education Code; or

(D) a public charter district [~~an open enrollment charter school~~] established under Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code.

SECTION _____. Subdivision (3), Section 1579.002, Insurance Code, is amended to read as follows:

(3) "Charter school" means a public charter district [~~an open enrollment charter school~~] established under Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code.

SECTION _____. Section 140.005, Local Government Code, is amended to read as follows:

Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD, OR OTHER DISTRICT. The governing body of a school district, public charter district [~~open enrollment charter school~~], junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

SECTION _____. Subsection (c), Section 140.006, Local Government Code, is amended to read as follows:

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The financial statement of a public charter district [~~an open enrollment charter school~~] shall be made available in the manner provided by Chapter 552, Government Code.

SECTION _____. Subdivision (2), Section 375.303, Local Government Code, is amended to read as follows:

(2) "Eligible project" means a program authorized by Section 379A.051 and a project as defined by Sections 2(11) and 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes). Notwithstanding this definition, seeking a charter for or operating a public charter district [~~an open enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an eligible project.

SECTION _____. Subsections (b) and (c), Section 375.308, Local Government Code, are amended to read as follows:

(b) An authority may not:

(1) issue bonds or notes without the prior approval of the governing body of the municipality that created the authority;

(2) seek a charter for or operate, within the boundaries of the authority, a public charter district [~~an open enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code; or

(3) levy ad valorem property taxes.

(c) A municipality may not seek a charter for or operate a public charter district [~~an open enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code, within the boundaries of the authority.

SECTION _____. Subdivision (15), Section 541.201, Transportation Code, is amended to read as follows:

(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, public charter district [~~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.

SECTION _____. Subdivision (9), Section 57.042, Utilities Code, is amended to read as follows:

(9) "Public school" means a public elementary or secondary school, including a public charter district [~~an open enrollment charter school~~], a home-rule school district school, and a school with a campus or campus program charter.

SECTION _____. Subdivision (2), Section 4, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Educational institution" means a school district or a public charter district [~~an open enrollment charter school~~].

SECTION _____. Section 40, Chapter 1504, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 40. (a) A public charter district that was [~~The change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act, applies beginning with the 2001-2002 school year, except as provided by this section.~~

~~[(b) An open enrollment charter school]~~ operating as an open-enrollment charter school on September 1, 2001, is funded as follows:

(1) [~~for the 2001-2002 and 2002-2003 school years, the school receives funding according to the law in effect on August 31, 2001;~~

~~[(2) for the 2003-2004 school year, the school receives 90 percent of its funding according to the law in effect on August 31, 2001, and 10 percent of its funding according to the change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act;~~

~~[(3) for the 2004-2005 school year, the school receives 80 percent of its funding according to the law in effect on August 31, 2001, and 20 percent of its funding according to the change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act;~~

~~[(4) for the 2005-2006 school year, the school receives 70 percent of its funding according to the law in effect on August 31, 2001, and 30 percent of its funding according to the change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act;~~

~~[(5) for the 2006-2007 school year, the school receives 60 percent of its funding according to the law in effect on August 31, 2001, and 40 percent of its funding according to the change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act;~~

~~[(6)] for the 2007-2008 school year, the school receives 50 percent of its funding according to the law in effect on August 31, 2001, and 50 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act];~~

~~(2) [(7)] for the 2008-2009 school year, the school receives 40 percent of its funding according to the law in effect on August 31, 2001, and 60 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act];~~

~~(3) [(8)] for the 2009-2010 school year, the school receives 30 percent of its funding according to the law in effect on August 31, 2001, and 70 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act];~~

~~(4) [(9)] for the 2010-2011 school year, the school receives 20 percent of its funding according to the law in effect on August 31, 2001, and 80 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act];~~

~~(5) [(10)] for the 2011-2012 school year, the school receives 10 percent of its funding according to the law in effect on August 31, 2001, and 90 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act]; and~~

~~(6) [(11)] for the 2012-2013 school year and subsequent school years, the school receives 100 percent of its funding according to the change in law made by Sections 11A.201 and 11A.203 [12.106 and 12.107], Education Code, as added by S.B. No. 4, Acts of the 80th Legislature, Regular Session, 2007 [amended by this Act].~~

(b) [~~e~~] The commissioner of education may adopt rules as necessary to implement this section.

SECTION _____. Section 12.106, Education Code, is repealed.

SECTION _____. Notwithstanding the repeal of Sections 12.107 and 12.128, Education Code, by this Act, those sections continue to apply to state funds and property received or purchased by an open-enrollment charter school before August 1, 2008.

SECTION _____. The following changes in law made by this Act apply beginning August 1, 2008:

(1) the changes made by amending Sections 5.001, 7.003, 7.010(b) and (d), 7.028(b), 7.055(b)(17), 7.102(c)(9), 11.003(e), 12.002, 12.151, 12.152, 12.156, 21.058(b) and (c), 21.652(b), 21.702(c), 22.083(b) and (c), 22.084, 22.101(3), 25.088, 25.089(a), 25.090(b), 25.093(d) and (e), 25.095(a) and (b), 25.0951(a) and (b), 26.0085(a), (c), (d), and (e), 28.0211(j), 29.010(f), 29.012(a) and (c), 29.062(c), (d), and (e), 29.087(a), (b), (b-1), (c), (e), (k), and (l), 29.155(a) through (d), (i), and (j), 29.905(b), 32.102 through 32.106, 33.007, 33.901, 37.007(e), 37.008(j), 37.022(a)(2), 39.072(c), 39.114(c) and (d), 39.131(a), 39.1321, 39.182(a), 39.301(a), (c), and (e), 39.302(a), 46.012, 46.036, and 53.351, Education Code;

(2) the changes made by amending Sections 411.097(c), 2175.128(a) and (b), and 2306.630(a), Government Code;

(3) the changes made by amending Sections 1575.002(6) and 1579.002(3), Insurance Code;

(4) the changes made by amending Sections 140.005, 140.006(c), 375.303(2), and 375.308(b) and (c), Local Government Code;

(5) the changes made by amending Section 541.201(15), Transportation Code;

(6) the changes made by amending Section 57.042(9), Utilities Code;

(7) the changes made by amending Subdivision (2), Section 4, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes); and

(8) the changes made by adding Sections 12.157, 32.1011, and 39.051(h), Education Code.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2237** (Senate committee printing) as follows:

(1) In SECTION 3 of the bill, in added Section 21.4511(a), Education Code (page 2, lines 5-6), strike "From funds appropriated for that purpose," and substitute "From funds appropriated for that purpose in an amount not to exceed \$2.5 million each year,".

(2) In SECTION 8 of the bill, in added Section 29.095(b), Education Code (page 4, line 18), strike "\$5 million" and substitute "\$4 million".

(3) In SECTION 8 of the bill, in added Section 29.096(b), Education Code (page 5, line 9), strike "Using funds appropriated for that purpose," and substitute "Using funds appropriated for that purpose in an amount not to exceed \$4 million each year,".

(4) In SECTION 8 of the bill, in added Section 29.097(b), Education Code (page 6, line 28), strike "From funds appropriated for that purpose," and substitute "From funds appropriated for that purpose in an amount not to exceed \$3 million each year,".

(5) In SECTION 9 of the bill, in added Section 29.919, Education Code (page 10, lines 25-27), strike Subsection (f) and substitute 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.

(6) In SECTION 11 of the bill, in added Section 39.357(d), Education Code (page 12, line 8), strike "to continue or expand a project," and substitute "to continue a project,".

(7) In SECTION 11 of the bill, in added Section 39.357(d), Education Code (page 12, line 10), strike "September 1, 2009" and substitute "March 15, 2008".

(8) In SECTION 11 of the bill, in added Section 39.361, Education Code (page 12, between lines 64 and 65), insert the following:

(d) The commissioner of education or the commissioner of higher education, as applicable:

(1) is not required under this section to allocate funds to a program or initiative recommended by the council; and

(2) may not allocate funds under this section without the recommendation of the council.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2237** (Senate committee printing) as follows:

(1) Between SECTIONS 4 and 5 of the bill (page 2, between lines 67 and 68), add the following appropriately numbered SECTION to the bill:

SECTION ____ . Subchapter J, Chapter 21, Education Code, is amended by adding Section 21.4551 to read as follows:

Sec. 21.4551. TEACHER READING ACADEMIES. (a) The commissioner shall develop and make available reading academies for teachers who provide instruction to students at the sixth through eighth grade levels.

(b) A reading academy developed under this section must include training in:

(1) for a teacher providing instruction in reading to students at the seventh or eighth grade level:

(A) administration of the reading instrument required by Section 28.006(c-1); and

(B) interpretation of the results of the reading instrument required by Section 28.006(c-1) and strategies, based on scientific research regarding effective reading instruction, for long-term intensive intervention to target identified student needs in word recognition, vocabulary, fluency, and comprehension;

(2) for a teacher providing instruction in reading to students at the sixth, seventh, or eighth grade level:

(A) strategies to be implemented in English language arts and other subject areas for multisyllable word reading, vocabulary development, and comprehension of expository and narrative text;

(B) an adaptation framework that enables teachers to respond to differing student strengths and needs, including adaptations for students of limited English proficiency or students receiving special education services under Subchapter A, Chapter 29;

(C) collaborative strategies to increase active student involvement and motivation to read; and

(D) other areas identified by the commissioner as essential components of reading instruction; and

(3) for a teacher providing instruction in mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level:

(A) strategies for incorporating reading instruction into the curriculum for the subject area taught by the teacher; and

(B) other areas identified by the commissioner.

(c) The commissioner by rule shall require a teacher to attend a reading academy if the teacher provides instruction in reading, mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level at a campus that is considered academically unacceptable under Section 39.132 on the basis of student performance on the reading assessment instrument administered under Section 39.023(a) to students in any grade level at the campus.

(d) The commissioner shall adopt criteria for selection of teachers, other than teachers described by Subsection (c), who may attend a reading academy.

(e) From funds appropriated for that purpose, a teacher who attends a reading academy is entitled to receive a stipend in the amount determined by the commissioner. A stipend received under this subsection is not considered in determining whether a district is paying the teacher the minimum monthly salary under Section 21.402.

(f) On request of the commissioner, regional education service centers shall assist the commissioner and agency with training and other activities relating to the development and operation of reading academies. The commissioner may seek additional assistance from other public and private providers.

(g) From funds appropriated for purposes of this section, the commissioner shall conduct or contract with a public or private entity to conduct a comprehensive evaluation of the reading academies developed under this section. The evaluation must:

(1) use qualitative, quantitative, and expert review methodologies, including:

(A) direct observations;

(B) follow-up interviews and surveys with participating teachers and administrators; and

(C) analysis of student data submitted through the Public Education Information Management System (PEIMS) and student assessment results to measure reading progress achieved by students receiving instruction from teachers who attended a reading academy in comparison to:

(i) reading progress achieved by those students in preceding years; and

(ii) reading progress achieved by students receiving instruction from teachers who did not attend a reading academy; and

(2) include an analysis of financial data to assess the cost-effectiveness of the reading academies.

(h) Not later than December 1, 2010, the commissioner shall prepare and deliver to each member of the legislature a report describing the results of the evaluation required by Subsection (g). Subsection (g) and this subsection expire September 1, 2011.

(2) Between SECTIONS 5 and 6 of the bill (page 3, between lines 51 and 52), add the following appropriately numbered SECTION to the bill:

SECTION ____. Section 28.006, Education Code, is amended by adding Subsections (c-1) and (g-1) to read as follows:

(c-1) Each school district shall administer at the beginning of the seventh grade a reading instrument adopted by the commissioner to each student whose performance on the assessment instrument in reading administered under Section 39.023(a) to the student in grade six did not demonstrate reading proficiency, as determined by the commissioner. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(g-1) A school district shall provide additional reading instruction and intervention to each student in seventh grade assessed under Subsection (c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by this subsection shall be provided by regional education service centers and teacher reading academies established under Section 21.4551, and may be provided by other public and private providers.

(3) Between SECTIONS 6 and 7 of the bill (page 3, between lines 60 and 61), add the following appropriately numbered SECTION to the bill:

SECTION ____. Section 28.0211, Education Code, is amended by adding Subsection (l-1) and amending Subsection (m) to read as follows:

(l-1) The commissioner may adopt rules requiring a school district that receives federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to use that funding to provide supplemental educational services under 20 U.S.C. Section 6316 in conjunction with the accelerated instruction provided under this section, provided that the rules may not conflict with federal law governing the use of that funding.

(m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section, including teacher training for that purpose.

(4) Between SECTIONS 12 and 13 of the bill (page 13, between lines 63 and 64), add the following appropriately numbered SECTIONS to the bill:

SECTION ____. Subsection (l), Section 28.0211, Education Code, is repealed.

SECTION ____. For purposes of Subsection (c-1), Section 28.006, Education Code, as added by this Act, the commissioner of education shall adopt the reading instrument developed by the Texas Education Agency under the Adolescent Literacy Initiative established in accordance with Rider 48b, page III-14, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (General Appropriations Act).

SECTION ____. The commissioner of education shall establish the teacher reading academies required by Section 21.4551, Education Code, as added by this Act, not later than June 1, 2008, and require teachers to begin attending the academies in accordance with that section on the basis of student performance data for the 2007-2008 school year.

(5) Renumber the SECTIONS of the bill accordingly.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2237** by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.062 to read as follows:

Sec. 7.062. SCIENCE LABORATORY GRANT PROGRAM. (a) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by the district's average daily attendance as determined under Section 42.005.

(b) Using funds appropriated for that purpose, the commissioner shall establish a program to provide competitive grants to school districts for the purpose of constructing or renovating high school science laboratories.

(c) The commissioner shall adopt rules necessary to implement the program, including rules addressing eligibility, application procedures, and accountability for use of grant funds.

(d) The rules must:

(1) limit the amount of assistance provided through a grant to not more than:

(A) for a construction project, \$200 per square foot of the science laboratory to be constructed; or

(B) for a renovation project, \$100 per square foot of the science laboratory to be renovated;

(2) require a school district to demonstrate, as a condition of eligibility for a grant, that the existing district science laboratories are insufficient in number to comply with the curriculum requirements imposed for the recommended and advanced high school programs under Section 28.025(b-1)(1); and

(3) provide for ranking school districts that apply for grants on the basis of wealth per student and giving priority in the award of grants to districts with low wealth per student.

SECTION ____ . Subchapter C, Chapter 46, Education Code, is amended by adding Section 46.062 to read as follows:

Sec. 46.062. REFINANCING REQUIRED. (a) In this section, "total debt service" means the amount of principal and unpaid interest on a bond from issuance to final maturity.

(b) A school district that receives state assistance under Subchapter A or B for payment of the principal of and interest on eligible bonds shall refinance the indebtedness evidenced by the eligible bonds if the refinancing would reduce the total debt service for the bonds by at least three percent.

(c) A school district described by Subsection (b) must evaluate on a regular basis whether savings at the level specified by that subsection may be achieved by the district.

(d) A school district may achieve the refinancing required under this section by issuing refunding bonds or entering into another appropriate financial transaction. To the extent that a district may achieve the refinancing through a method that results in relatively significant immediate savings, as opposed to gradual savings over an extended period of time, the district shall give preference to that method.

(e) If the agency determines that a school district has potentially failed to refinance indebtedness as required by this section, the agency shall notify the district of the agency's determination and request that the district, not later than the 90th day after the date of notification:

(1) complete refinancing the indebtedness and provide evidence of the completion to the agency; or

(2) demonstrate to the agency's satisfaction that refinancing is not required by this section.

(f) Notwithstanding any other provision of this chapter, a school district that fails to comply with Subsection (e)(1) or (2) is, until the district complies to the agency's satisfaction, ineligible for state assistance under Subchapter A or B for payment of the principal of and interest on eligible bonds, other than refunding bonds, that are issued by the district after the date on which the district is determined by the agency to have failed to comply.

(g) Before each regular session of the legislature, the Legislative Budget Board, in conjunction with the calculation of the funding elements required under Section 42.007, shall determine the amount by which the amount to be appropriated for the school facilities programs under this chapter may be reduced as a result of refinancing required under this section. The amount of money that is not required to be appropriated for the school facilities programs as a result of refinancing, as determined by the board, may be appropriated only for the purpose of providing grants under Section 7.062.

(h) The commissioner shall adopt rules implementing this section, including rules specifying the manner and frequency of the evaluation required under Subsection (c).

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Ogden.

Senator West offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2237** as follows:

(1) On page 3, between lines 4 and 5, insert the following appropriately numbered SECTION to the bill:

SECTION _____. Section 7.056(e), Education Code, is amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;
(2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) essential knowledge or skills under Section 28.002 or minimum graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, and G, Chapter 39;

(C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;

(D) health and safety under Chapter 38;

(E) purchasing under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at-risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;

(K) special education programs under Subchapter A, Chapter 29;

(L) bilingual education programs under Subchapter B, Chapter 29; ~~or~~

(M) the requirements for the first day of instruction under Section 25.0811; or

(N) the prohibition on assignment of a student to an inexperienced and uncertified teacher under Section 28.0216, except as otherwise authorized under that section.

(2) On page 8, between lines 16 and 17, insert the following appropriately numbered SECTION to the bill:

SECTION _____. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0216 to read as follows:

Sec. 28.0216. LIMITS ON ASSIGNMENT OF STUDENTS TO TEACHERS.

(a) This section applies only to a school district with an enrollment of 5,000 or more students.

(b) A student in kindergarten through grade six may not be assigned for two consecutive school years to a teacher who:

(1) has less than one year of teaching experience; and

(2) does not hold the appropriate certificate required under Section 21.003.

(c) In a subject for which a student is assessed under Section 39.023(a) or (c), a student in grade seven through 12 may not be assigned for two consecutive years to a teacher who:

(1) has less than one year of teaching experience; and

(2) does not hold the appropriate certificate required under Section 21.003.

(d) The prohibition prescribed by Subsection (b) or (c) does not apply if the student's parent or other person standing in parental relation to the student and a school counselor or school administrator agree that assignment of the student to the teacher should be allowed.

(e) The commissioner may grant a waiver from the requirements of this section to a school district if the commissioner finds that extreme circumstances in the district warrant the waiver. The commissioner may adopt rules as necessary to implement this section.

(3) Renumber the SECTIONS of the bill accordingly.

The amendment to **CSHB 2237** was read.

Senator West withdrew Floor Amendment No. 5.

Floor Amendment No. 6 was not offered.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 2237** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter J, Chapter 21, Education Code, is amended by adding Section 21.461 to read as follows:

Sec. 21.461. PROFESSIONAL DEVELOPMENT INSTITUTES REGARDING EDUCATION OF STUDENTS WITH DISABILITIES. (a) The commissioner shall develop and make available professional development institutes for teachers and paraprofessionals relating to research-based instructional services for students with disabilities, including autism spectrum disorders.

(b) A professional development institute developed under this section must address:

(1) disability-specific information necessary to enable a teacher or paraprofessional to work effectively in the classroom with students with disabilities;

(2) instructional techniques proven by scientifically based research to be effective in teaching the curriculum required under Section 28.002 to students with disabilities; and

(3) appropriate management of behaviors related to a student's disability that may affect the student's performance.

(c) The commissioner shall adopt criteria for selection of teachers and paraprofessionals authorized to attend a professional development institute developed under this section. The commissioner must give priority to teachers and paraprofessionals who have a significant level of professional contact with students with autism spectrum disorders.

(d) From funds appropriated for the purpose, the commissioner shall pay a stipend to each teacher or paraprofessional who completes a professional development institute developed under this section. The commissioner shall determine the amount of the stipend paid under this subsection.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent: Ogden.

Senator West offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 2237** (Senate committee report) as follows:

On page __, between lines __ and __, insert the following new Section 39.116, Education Code, to read as follows:

Sec. 39.116. INITIATIVE FOR RETAINING QUALITY EDUCATORS. (a) To help prevent dropouts and disruptions that may result from certain mandatory sanctions, a school district may:

(1) notwithstanding Section 39.1324(b), retain at a campus a principal who has been employed at the campus in that capacity during the two-year period described by Section 39.1324(a) and whose campus has demonstrated a pattern of significant academic improvement by students at the campus.

Re-number accordingly

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent: Ogden.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 2237** (Senate committee printing) as follows:

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

SECTION _____. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

CHAPTER 403. BASIC DYSLEXIA PRACTITIONERS AND ADVANCED
DYSLEXIA THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

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

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

(4) "License holder" means a person who holds a license issued under this chapter.

(5) "Multisensory structured language education" means a program for the treatment of individuals with dyslexia and related disorders that:

(A) includes instruction in:

(i) phonology and phonological awareness;

(ii) sound and symbol association;

(iii) syllables;

(iv) morphology;

(v) syntax; and

(vi) semantics; and

(B) is taught with the principles of:

(i) simultaneous multisensory instruction, including visual-auditory-kinesthetic-tactile instruction;

(ii) systematic and cumulative instruction;

(iii) explicit instruction;

(iv) diagnostic teaching to automaticity; and

(v) synthetic and analytic instruction.

Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF STATE HEALTH SERVICES. The department shall administer this chapter.

Sec. 403.003. APPLICABILITY. This chapter does not:

(1) require a school district to employ a person licensed under this chapter;

or

(2) authorize a person who is not licensed under Chapter 401 to practice audiology or speech-language pathology.

[Sections 403.004-403.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 403.051. ADVISORY COMMITTEE. The department shall appoint an advisory committee to advise the department in administering this chapter.

Sec. 403.052. RULES. The executive commissioner shall adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

[Sections 403.053-403.100 reserved for expansion]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 403.101. LICENSE REQUIRED. A person may not use the title "basic dyslexia practitioner" or "advanced dyslexia therapist" in this state unless the person holds the appropriate license under this chapter.

Sec. 403.102. ISSUANCE OF LICENSE. The department shall issue a basic dyslexia practitioner or advanced dyslexia therapist license to an applicant who meets the requirements of this chapter.

Sec. 403.103. LICENSE APPLICATION. (a) A license applicant must apply to the department on a form and in the manner the department prescribes.

(b) The application must be accompanied by a nonrefundable application fee.

Sec. 403.104. ELIGIBILITY FOR BASIC DYSLEXIA PRACTITIONER LICENSE. (a) To be eligible for a basic dyslexia practitioner license, an applicant must have:

(1) earned a bachelor's degree from an accredited public or private institution of higher education;

(2) successfully completed at least 45 hours of course work in multisensory structured language education from a training program that meets the requirements of Section 403.106;

(3) completed at least 90 hours of practice of supervised clinical experience in multisensory structured language education; and

(4) completed at least five observations of the practice of multisensory structured language education, each followed by a conference and a written report and observed by an instructor from a training program that meets the requirements of Section 403.106.

(b) Clinical experience required under Subsection (a)(3) must be obtained under:

(1) the supervision of a training program that meets the requirements of Section 403.106; and

(2) guidelines approved by the department.

Sec. 403.105. ELIGIBILITY FOR ADVANCED DYSLEXIA THERAPIST LICENSE. (a) To be eligible for an advanced dyslexia therapist license, an applicant must have:

(1) earned at least a master's degree from an accredited public or private institution of higher education;

(2) successfully completed at least 200 hours of course work in multisensory structured language education from a training program that meets the requirements of Section 403.106;

(3) completed at least 700 hours of practice of supervised clinical experience in multisensory structured language education; and

(4) completed at least 10 observations of the practice of multisensory structured language education, each followed by a conference and a written report and observed by an instructor from a training program that meets the requirements of Section 403.106.

(b) Clinical experience required under Subsection (a)(3) must be obtained under:

(1) the supervision of a person holding an advanced dyslexia therapist license; and

(2) guidelines approved by the department.

Sec. 403.106. REQUIREMENTS FOR TRAINING PROGRAMS. (a) For purposes of determining whether an applicant satisfies the training requirements for a license under this chapter, a multisensory structured language education training program completed by the applicant must:

(1) be accredited by a nationally recognized accrediting organization;

(2) provide instruction in each element of multisensory structured language education;

(3) provide instruction based on the Texas Education Agency publication The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (2001);

(4) be committed to self-study;

(5) have been reviewed by dyslexia education professionals who are not affiliated with the training program; and

(6) develop and follow procedures to maintain and improve the quality of training provided by the program.

(b) The department, in consultation with the advisory committee, shall determine whether a training program meets the requirements of Subsection (a).

Sec. 403.107. EXAMINATION; RULES. (a) To obtain a license, an applicant must:

(1) pass an examination approved by the department; and

(2) pay fees set by the executive commissioner.

(b) The department shall, in consultation with the advisory committee:

(1) administer an examination at least twice each year;

(2) determine standards for acceptable performance on the examination; and

(3) maintain a record of all examination scores for at least two years after the date of examination.

(c) In consultation with the advisory committee, the executive commissioner by rule may:

(1) establish procedures for the administration of the examination; and

(2) require a written examination.

Sec. 403.108. REEXAMINATION. (a) A person who fails the examination may take a later examination on payment of a nonrefundable fee for the examination.

(b) An applicant who fails two examinations may not be reexamined until the person:

(1) submits a new application accompanied by a nonrefundable application fee; and

(2) presents evidence acceptable to the department of additional study in the area for which a license is sought.

Sec. 403.109. WAIVER OF EXAMINATION REQUIREMENT. The department, in consultation with the advisory committee, may waive the examination requirement and issue a license to an applicant who holds an appropriate certificate or other accreditation from a national organization recognized by the department.

Sec. 403.110. PROVISIONAL LICENSE. (a) The department, in consultation with the advisory committee, may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

(1) has been licensed in good standing as a basic dyslexia practitioner or an advanced dyslexia therapist for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department relating to the practice of multisensory structured language education; and

(3) is sponsored by a person licensed by the department under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for a license.

(d) The department shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder passes the part of the examination under Section 403.107 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of multisensory structured language education in this state;

(2) the department verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other licensing requirements under this chapter.

(e) The department must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

Sec. 403.111. TEMPORARY LICENSE; RULES. The executive commissioner by rule may provide for the issuance of a temporary license.

Sec. 403.112. INACTIVE STATUS; RULES. (a) The executive commissioner by rule may provide for a license holder to be placed on inactive status.

(b) Rules adopted under this section must include a time limit for a license holder to remain on inactive status.

[Sections 403.113-403.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 403.151. PRACTICE SETTING. (a) A basic dyslexia practitioner may practice only in a supervised educational setting, including a school, learning center, or clinic.

(b) An advanced dyslexia therapist may practice in a school, clinic, or private practice setting.

Sec. 403.152. CONTINUING EDUCATION. (a) A license holder may not renew the person's license unless the person meets the continuing education requirements established by the executive commissioner.

(b) The executive commissioner, in consultation with the advisory committee, shall establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

(c) The department shall:

(1) provide to a license applicant, with the application form on which the person is to apply for a license, information describing the continuing education requirements; and

(2) notify each license holder of any change in the continuing education requirements at least one year before the date the change takes effect.

[Sections 403.153-403.200 reserved for expansion]

SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY PROCEDURES

Sec. 403.201. COMPLAINTS. Any person may file a complaint with the department alleging a violation of this chapter or a rule adopted under this chapter.

Sec. 403.202. PROHIBITED ACTIONS. A license holder may not:

(1) obtain a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) sell, barter, or offer to sell or barter a license; or

(3) engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by executive commissioner rule.

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted by the executive commissioner, the department shall:

(1) revoke or suspend the license;

(2) place on probation the person if the person's license has been suspended;

(3) reprimand the license holder; or

(4) refuse to renew the license.

Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR CRIMINAL CONVICTION. (a) The department may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The department may take action authorized by this section when:

(1) the time for appeal of the person's conviction has elapsed;

(2) the judgment or conviction has been affirmed on appeal; or

(3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:

(A) allows withdrawal of a plea of guilty;

(B) sets aside a verdict of guilty; or

(C) dismisses an information or indictment.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction for purposes of this section.

Sec. 403.205. HEARING. (a) If the department proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing before a hearing officer appointed by the State Office of Administrative Hearings.

(b) The executive commissioner shall prescribe procedures for appealing to the commissioner a decision to revoke, suspend, or refuse to renew a license.

Sec. 403.206. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter to suspend, revoke, or refuse to renew a license is governed by Chapter 2001, Government Code.

Sec. 403.207. SANCTIONS. (a) The executive commissioner by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

(b) The State Office of Administrative Hearings shall use the schedule of sanctions for a sanction imposed as the result of a hearing conducted by that office.

Sec. 403.208. PROBATION. The department may require a person whose license suspension is probated to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to areas prescribed by the department; or

(3) continue the person's professional education until the license holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The executive commissioner by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the department to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

Sec. 403.210. INFORMAL PROCEDURES. (a) The executive commissioner by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant and the license holder an opportunity to be heard; and

(2) require the presence of a representative of the attorney general or the department's legal counsel to advise the department or the department's employees.

Sec. 403.211. REFUND. (a) Subject to Subsection (b), the department 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 the license holder for a service regulated by this chapter. The department may not require payment of other damages or estimate harm in a refund order.

Sec. 403.212. REINSTATEMENT. (a) A person may apply for reinstatement of a revoked license on or after the first anniversary of the date of revocation.

(b) The department may:

(1) accept or reject the application; and

(2) require an examination as a condition for reinstatement of the license.

Sec. 403.213. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the department may:

(1) issue a written reprimand to a license holder who violates this chapter;

or

(2) require that a license holder who violates this chapter attend continuing education programs.

(b) The department, in consultation with the advisory committee, may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

Sec. 403.214. EMERGENCY SUSPENSION. (a) The department shall temporarily suspend the license of a license holder if the department determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

[Sections 403.215-403.250 reserved for expansion]

SUBCHAPTER F. ADMINISTRATIVE PENALTY

Sec. 403.251. IMPOSITION OF ADMINISTRATIVE PENALTY. The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

Sec. 403.252. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The amount of the administrative penalty may not be more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(c) The executive commissioner by rule shall adopt an administrative penalty schedule based on the criteria listed in Subsection (b) for violations of this chapter or applicable rules to ensure that the amounts of penalties imposed are appropriate to the violation. The executive commissioner shall provide the administrative penalty schedule to the public on request.

Sec. 403.253. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the commissioner or the commissioner's designee determines that a violation occurred, the commissioner or the designee may issue to the department a report stating:

- (1) the facts on which the determination is based; and
- (2) the commissioner's or the designee's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Within 14 days after the date the report is issued, the commissioner or the commissioner's designee shall give written notice of the report to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended administrative penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 403.254. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Within 10 days after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended administrative penalty of the commissioner or the commissioner's designee; or
- (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the commissioner or the commissioner's designee, the commissioner by order shall approve the determination and impose the recommended penalty.

Sec. 403.255. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the commissioner or the commissioner's designee shall set a hearing and give written notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

Sec. 403.256. DECISION BY COMMISSIONER. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the commissioner by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the commissioner's order given to the person must include a statement of the right of the person to judicial review of the order.

Sec. 403.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Within 30 days after the date the commissioner's order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order

is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commissioner or the commissioner's designee by certified mail.

(c) If the commissioner or the commissioner's designee receives a copy of an affidavit under Subsection (b)(2), the commissioner or the designee may file with the court, within five days after the date the copy is received, a contest to the affidavit.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Sec. 403.258. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 403.259. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 403.260. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 403.261. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is a contested case under Chapter 2001, Government Code.

[Sections 403.262-403.300 reserved for expansion]

SUBCHAPTER G. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

Sec. 403.301. INJUNCTION. (a) The department may request the attorney general or the appropriate county or district attorney to commence an action to enjoin a violation of this chapter.

(b) The remedy provided by this section is in addition to any other action authorized by law.

Sec. 403.302. CIVIL PENALTY. (a) A person who violates this chapter, a rule adopted by the executive commissioner, or an order adopted by the commissioner under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) At the request of the department, the attorney general shall bring an action to recover a civil penalty authorized under this section.

Sec. 403.303. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 403.101.

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

Sec. 403.304. CEASE AND DESIST ORDER. (a) If it appears to the commissioner that a person who is not licensed under this chapter is violating this chapter or a rule adopted under this chapter, the commissioner after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under this chapter.

SECTION _____. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING, ~~AND~~ SPEECH, AND DYSLEXIA

(2) In SECTION 14 of the bill, at the end of that section (page 14, line 15), insert "This section does not apply to Chapter 403, Occupations Code, as added by this Act."

(3) Strike SECTION 15 of the bill (page 14, lines 16 through 20) and substitute the following appropriately numbered SECTION:

SECTION _____. (a) Except as provided by Subsections (b) and (c) 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.

(b) Except as provided by Subsection (c) of this section, the changes in law made by this Act to Subtitle G, Title 3, Occupations Code, take effect September 1, 2007.

(c) Section 403.101 and Subchapters E, F, and G, Chapter 403, Occupations Code, as added by this Act, take effect February 1, 2008.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Absent: Ogden.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 2237** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.451, Education Code, is amended by amending Subsection (d) and adding Subsections (e), (f), and (g) to read as follows:

(d) The staff development ~~may~~:

(1) may include training in:

(A) technology;

(B) conflict resolution; and

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; and

(2) subject to Subsection (e), must include research-based training that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education.

(e) A school district is required to provide the training described by Subsection (d)(2) to an educator who works primarily outside the area of special education only on the recommendation of the admission, review, and dismissal committee for a student receiving instruction from the educator.

(f) In developing the training required by Subsection (d)(2), a school district must consult with persons with expertise in research-based practices for students with disabilities. Persons who may be consulted under this subsection include colleges, universities, private and nonprofit organizations, regional education service centers, and any other persons identified as qualified by the district. This subsection applies to all training required by Subsection (d)(2), regardless of whether the training is provided at the campus or district level.

(g) The staff development ~~may~~ ~~and~~

(☞) include instruction as to what is permissible under law, including opinions of the United States Supreme Court and guidance from the United States Department of Education, regarding prayer in public school.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Absent: Ogden.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSHB 2237** (Senate committee printing) as follows:

(1) Between SECTIONS 2 and 3 of the bill (page 2, between lines 1 and 2), insert the following appropriately numbered SECTION to the bill:

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.134 and 12.135 to read as follows:

Sec. 12.134. AGREEMENT BETWEEN CERTAIN SCHOOL DISTRICTS AND OPEN-ENROLLMENT CHARTER SCHOOLS. (a) This section applies only to a school district with a student enrollment of 140,000 or more.

(b) Notwithstanding any other law, a school district that contracts with an open-enrollment charter school for education services for the district's students on the premises of the charter school may elect to have the federal and state funds attributable to students educated by the charter school paid directly to the charter school.

(c) A district that elects for direct payment to the charter school under Subsection (b):

(1) shall make an annual declaration of the district's election under Subsection (b) in the manner prescribed by the commissioner; and

(2) remains responsible for any overallocation or audit recovery of federal or state funds as determined by the commissioner.

(d) The contract between the school district and the charter school shall identify for each school year the students from the school district who may enroll in the charter school and be served in the leased facilities. The district may identify the students under this subsection based on:

(1) the enrollment and attendance of the eligible students at a specified campus or campuses in the leasing school district;

(2) the needs of the eligible students for specific academic services;

(3) the academic performance of the eligible students in previous school years; or

(4) other objective factors as determined by the district and charter school.

(e) The contract may prohibit a charter school from enrolling students, other than students designated in the contract as provided by Subsection (d), at the leased facilities.

(f) This section expires September 1, 2011.

Sec. 12.135. STATE FUNDING UNDER CERTAIN SCHOOL DISTRICT AGREEMENTS. (a) Notwithstanding any other provision of Chapter 41 or 42, and in addition to any other funds to which a school district may be entitled, a school district that enters into an agreement with a charter school under Section 12.134 is entitled to receive the greater of the following amounts of state funding:

(1) the amount the charter school would receive as calculated under Section 12.106; or

(2) the amount to which the school district is entitled under Chapters 41 and 42 for the student.

(b) This section expires September 1, 2011.

(2) Renumber the SECTIONS of the bill accordingly.

The amendment to **CSHB 2237** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 except as follows:

Absent: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2237 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 2237 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2237** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 1751 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **HB 1751** at this time on its second reading:

HB 1751, Relating to the imposition and use of a fee on certain sexually oriented businesses.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Jackson, Patrick, Seliger.

Absent: Gallegos, Ogden.

The bill was read second time.

Senator West offered the following amendment to the bill:

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 Senate Bill No. 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 Senate Bill No. 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.

The amendment to **HB 1751** was read.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **HB 1751** as follows by adding a new SECTION and renumber all sections accordingly:

SECTION 4. Section 32.03(k), Alcoholic Beverage Code, is amended to read as follows:

(k) A private club registration permit may not be issued to or maintained by a club for a premises located in a dry area if the club operates a sexually oriented business, as defined by Section 243.002, Local Government Code, on the premises[-] unless the club submits an annual registration fee of \$5,000 to the comptroller in the manner prescribed by the comptroller for a deposit to the credit of the sexual assault program fund.

The amendment to Floor Amendment No. 1 to **HB 1751** was read.

Senator Lucio withdrew Floor Amendment No. 2.

Senator Patrick offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **HB 1751** (Senate committee printing) in SECTION 3 of the bill, by striking proposed Section 47.055 on page 2, line 31 through page 3 lines 1 through 14, and replacing with:

47.055. ALLOCATION OF ADDITIONAL REVENUE. The comptroller shall deposit any amount received from the fee imposed under this subchapter that exceeds \$18 million in a fiscal biennium in the following portions:

(1) 50 percent to the Attorney General to administer grants to nonprofits group that provide resources to pregnant women;

(2) 10 percent to the Attorney General to administer grants to nonprofits groups that promote and enhance the development of boys and girls by instilling a sense of competence, usefulness, belonging and influence;

(3) 10 percent to the Attorney General to administer grants to organizations that support multiply handicapped children;

(4) 30 percent to the Texas Higher Education Coordinating Board for student financial aid programs: the Texas Grant Program and the B-on-Time Loan Program equally.

The amendment to Floor Amendment No. 1 to **HB 1751** was read.

Senator Patrick withdrew Floor Amendment No. 3.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **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"

The amendment to Floor Amendment No. 1 to **HB 1751** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 1751**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent: Ogden.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1751 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Seliger.

Absent: Ogden.

HOUSE BILL 1751 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1751** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Seliger.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

HOUSE BILL 3731 ON SECOND READING

Senator Van de Putte, on behalf of Senator Gallegos, moved to suspend the regular order of business to take up for consideration **HB 3731** at this time on its second reading:

HB 3731, Relating to the administration of retirement systems for paid, partly paid, or volunteer firefighters.

The motion prevailed.

Senator Harris asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

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.

The amendment to **HB 3731** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Van de Putte, on behalf of Senator Gallegos, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3731 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Harris.

Absent: Ogden.

HOUSE BILL 3731 ON THIRD READING

Senator Van de Putte, on behalf of Senator Gallegos, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3731** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Harris.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

HOUSE BILL 2823 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2823** at this time on its second reading:

HB 2823, Relating to provisional voting by a person who applied for an early voting ballot by mail.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2823** (Senate committee printing) by striking "2007" on page 1, line 37, and substituting "2009".

The amendment to **HB 2823** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Patrick and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2823 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2823 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2823** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Brimer announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 7:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2004**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 21, 2007

Honorable David Dewhurst
President of the Senate

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.

LUCIO
CARONA
VAN DE PUTTE

GIDDINGS
ELKINS
BAILEY
ZEDLER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2004** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2261**

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas
May 21, 2007

Honorable David Dewhurst
President of the Senate

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.

JACKSON
BRIMER
FRASER
HARRIS
ELTIFE

On the part of the Senate

CALLEGARI
AYCOCK
MILES
O'DAY

On the part of the House

The Conference Committee Report on **HB 2261** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1993**

Senator Nichols submitted the following Conference Committee Report:

Austin, Texas
May 21, 2007

Honorable David Dewhurst
President of the Senate

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 **SB 1993** 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.

NICHOLS
PATRICK
BRIMER
URESTI
WATSON

On the part of the Senate

FLYNN
B. BROWN
HUGHES
HOPSON
BERMAN

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the validation of acts and proceedings of the Lake View Management and Development District and the division of the district into two or more new districts.

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

SECTION 1. Subchapter C, Chapter 3828, Special District Local Laws Code, is amended by adding Section 3828.112 to read as follows:

Sec. 3828.112. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside Henderson County; or

(2) in the corporate limits or extraterritorial jurisdiction of a municipality, unless the municipality consents.

(d) Any new district created by the division of the district has all the powers and duties of the district.

SECTION 2. (a) All governmental and proprietary actions of the Lake View Management and Development District taken before April 1, 2007, are validated, ratified, and confirmed in all respects as if the actions had been taken as authorized by law.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

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.

The Conference Committee Report on **SB 1993** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1896**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 21, 2007

Honorable David Dewhurst
President of the Senate

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 **SB 1896** 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
DEUELL
NELSON
SHAPLEIGH
WEST

On the part of the Senate

DELISI
GONZALES
HOMER
HOPSON
ZERWAS

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the distribution and redistribution of certain drugs.

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

SECTION 1. Subsections (a) and (b), Section 562.1085, Occupations Code, are amended to read as follows:

(a) A pharmacist who practices in or serves as a consultant for a health care facility or a licensed health care professional responsible for administration of drugs in a penal institution, as defined by Section 1.07, Penal Code, in this state may return to a pharmacy certain unused drugs, other than a controlled substance as defined by Chapter 481, Health and Safety Code, purchased from the pharmacy as provided by board rule. The unused drugs must:

(1) be approved by the federal Food and Drug Administration and be:

(A) sealed in unopened tamper-evident packaging and either individually packaged or packaged in unit-dose packaging;

(B) oral or parenteral medication in sealed single-dose containers approved by the federal Food and Drug Administration;

(C) topical or inhalant drugs in sealed units-of-use containers approved by the federal Food and Drug Administration; or

(D) parenteral medications in sealed multiple-dose containers approved by the federal Food and Drug Administration from which doses have not been withdrawn; and

(2) not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

(b) A pharmacist for the pharmacy shall examine a drug returned under this section to ensure the integrity of the drug product. A health care facility or penal institution may not return a drug that:

(1) has been compounded;

(2) appears on inspection to be adulterated;

(3) requires refrigeration; or

(4) has less than 120 days until the expiration date or end of the shelf life.

SECTION 2. Section 431.321, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d-1) to read as follows:

(a) "Charitable medical clinic" means a clinic, including a licensed pharmacy that is a community pharmaceutical access program provider, that provides medical care or drugs without charge or for a substantially reduced charge, complies with the insurance requirements of Chapter 84, Civil Practice and Remedies Code, and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) or 501(c)(4) of the code and is operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community.

(d-1) In this subchapter, "community pharmaceutical access program" means a program offered by a licensed pharmacy under which the pharmacy assists financially disadvantaged persons to access prescription drugs at no charge or at a substantially reduced charge.

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.

The Conference Committee Report on **SB 1896** was filed with the Secretary of the Senate.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:31 a.m. agreed to recess, upon completion of the Local and Uncontested Calendar Session, until 10:30 a.m. today.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 1117 by Lucio, In memory of Justo Barrientes, Sr., of Brownsville.

HCR 209 (Eltife), In memory of Gracie Ray Anne Williams of Bogata.

HCR 215 (Eltife), In memory of Mary Celeste Morrison Fasken Marcum of Midland.

HCR 218 (Eltife), In memory of James William "Billy" Daniel of Mount Pleasant.

HCR 228 (Wentworth), In memory of Bruce B. Cloud of San Antonio.

HCR 231 (Williams), In memory of Beaumont police officer Lisa Renee Ligda Beaulieu.

HCR 234 (Eltife), In memory of the Honorable William M. Steger, U.S. District Judge for the Eastern District of Texas.

HCR 242 (Eltife), In memory of J. W. "Dub" Thomas of Mount Pleasant.

HCR 244 (Eltife), In memory of Brent Douglas Wilson of Paris.

HCR 245 (Eltife), In memory of Calvin Dudley of Paris.

HCR 246 (Eltife), In memory of Janie D. "Mimi" Buster of the Caviness community.

HCR 262 (Lucio, Hinojosa), In memory of John Austin Pena of Edinburg.

Congratulatory Resolutions

SCR 84 by Watson, Lucio, and Zaffirini, Recognizing Phil Hatlen on the occasion of his retirement from the Texas School for the Blind and Visually Impaired.

SR 1110 by West, Recognizing Dick Gregory on the occasion of his 75th birthday.

SR 1111 by Seliger, Recognizing J. Pat Richmond on the occasion of his retirement from West Texas A&M University.

SR 1113 by Watson, Congratulating the Science Olympiad team of the Liberal Arts and Science Academy at Lyndon Baines Johnson High School in Austin for winning a state championship.

SR 1114 by Watson, Congratulating the Science Olympiad team of Kealing Middle School in Austin for winning a state championship.

SR 1115 by Averitt, Recognizing Juan Davis on the occasion of her retirement from the Texas Department of Criminal Justice.

SR 1116 by Lucio, Recognizing Simon Salinas for his service to Willacy County.

SR 1118 by Lucio, Congratulating Selma D. Yznaga for earning an 'Ohana Honors award from the Counselors for Social Justice.

SR 1119 by Lucio, Congratulating Richard Moore for being named the 2007 Outstanding Naturalist by the Valley Nature Center.

SR 1120 by Lucio, Commending Chris Harris, Jr., for his accomplishments in the sport of rodeo.

HCR 208 (Fraser), Congratulating the City of Killeen on being named the Association of Defense Communities 2006 Active Base Community of the Year.

HCR 216 (Eltife), Honoring nine-year-old Katie Chaix of Paris, Texas, for saving her little sister's life.

HCR 217 (Eltife), Honoring the building firm of Harrison, Walker & Harper for its award-winning restoration and construction projects in Texas.

HCR 221 (Patrick), Congratulating Wesley and Bertha Krueger of Houston on their 50th wedding anniversary.

HCR 250 (Hinojosa), Honoring Nate Blakeslee of the Texas Observer and Doug Swanson of The Dallas Morning News for their reporting regarding the Texas Youth Commission.

HCR 251 (Hinojosa), Commending Ana Yanez Correa and Marc Levin on their contributions to the legislature's deliberations on juvenile justice and criminal justice in general.

HCR 264 (Duncan), Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.

RECESS

On motion of Senator Whitmire, the Senate at 1:33 a.m. recessed, in memory of Walter Harold Gray of New Deal and Kenneth Buckland, until 7:00 a.m. today, Wednesday, May 23, 2007, for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 22, 2007

STATE AFFAIRS — **HB 1919** (Amended)

BUSINESS AND COMMERCE — **HCR 198**, **HB 2936**, **CSHB 3271**

STATE AFFAIRS — **HB 2265** (Amended), **HB 1613** (Amended)

NATURAL RESOURCES — **CSHB 461, HB 1309, HB 2883** (Amended), **HB 3168**
INTERNATIONAL RELATIONS AND TRADE — **HB 967, HCR 151**
BUSINESS AND COMMERCE — **CSHB 581**

SENT TO GOVERNOR

May 22, 2007

SB 22, SB 24, SB 61, SB 63, SB 64, SB 82, SB 129, SB 136, SB 138, SB 139, SB 140, SB 153, SB 157, SB 166, SB 175, SB 182, SB 201, SB 214, SB 235, SB 246, SB 247, SB 251, SB 274, SB 285, SB 289, SB 295, SB 303, SB 310, SB 311, SB 322, SB 328, SB 329, SB 351, SB 352, SB 397, SB 480, SB 502, SB 512, SB 535, SB 541, SB 555, SB 561, SB 563, SB 564, SB 592, SB 608, SB 616, SB 618, SB 620, SB 640, SB 654, SB 682, SB 687, SB 705, SB 711, SB 748, SB 749, SB 757, SB 781, SB 811, SB 819, SB 821, SB 833, SB 835, SB 850, SB 853, SB 867, SB 870, SB 877, SB 885, SB 893, SB 908, SB 924, SB 932, SB 940, SB 949, SB 955, SB 969, SB 1037, SB 1039, SB 1047, SB 1056, SB 1063, SB 1086, SB 1165, SB 1182, SB 1196, SB 1215, SB 1222, SB 1244, SB 1257, SB 1260, SB 1269, SB 1318, SB 1325, SB 1349, SB 1372, SB 1396, SB 1412, SB 1413, SB 1416, SB 1417, SB 1439, SB 1519, SB 1536, SB 1540, SB 1541, SB 1618, SB 1626, SB 1627, SB 1630, SB 1661, SB 1709, SB 1732, SB 1761, SB 1765, SB 1766, SB 1786, SB 1884, SB 1953, SB 1956, SB 1961, SB 1963, SB 1964, SB 1965, SB 1966, SB 1967, SB 1999, SB 2009, SCR 30, SCR 38, SCR 70, SCR 71, SCR 72, SCR 75

