S.B. 625	Effective August 27, 1979
S.B. 667	Effective immediately
S.B. 710	Effective immediately
S.B. 775	Section 1 Effective September 1, 1979 Section 2 Effective September 1, 1980
S.B. 815	Effective August 27, 1979
S.B. 834	Effective August 27, 1979
S.B. 1122	Effective August 27, 1979
S.B. 1160	Effective August 27, 1979
S.B. 1187	Effective August 27, 1979
S.B. 1209	Effective August 27, 1979
S.B. 1239	Effective immediately
S.B. 1294	Effective immediately
H.B. 305	Effective August 27, 1979
H.B. 370	Effective immediately
H.B. 436	Effective August 27, 1979
H.B. 455	Effective immediately
H.B. 508	Effective immediately
H.B. 616	Effective August 27, 1979
H.B. 779	Effective August 27, 1979
H.B. 784	Effective August 27, 1979
H.B. 845	Effective August 27, 1979
H.B. 1067	Effective August 27, 1979
H.B. 1069	Effective August 27, 1979
H.B. 1115	Effective immediately
H.B. 1175	Effective immediately
H.B. 1318	Effective immediately
H.B. 1373	Effective August 27, 1979
H.B. 1431	Effective January 1, 1980
H.B. 1491	Effective August 27, 1979
H.B. 1523	Effective September 1, 1979
H.B. 1575	Effective August 27, 1979
H.B. 1590	Effective August 27, 1979
H.B. 1662	Effective immediately
H.B. 1787	Effective August 27, 1979
H.B. 2154	Effective August 27, 1979
H.B. 2161	Effective August 27, 1979

SEVENTY-NINTH DAY

(Monday, May 28, 1979)

The Senate met at 9:30 o'clcock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris,

Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

A quorum was announced present.

The Reverend Rodney Williams, Mimosa Lane Baptist Church, Mesquite, offered the invocation as follows:

Our Heavenly Father, we thank You today for this opportunity to pause and recognize You as our Lord and our God.

And Our Father, we pray for Your divine guidance upon this session of the legislature. Our Father, we pray that You would impart to these Senators wisdom that comes from You.

And our Father, we pray that that wisdom might move to courage and conviction to stand up for what they believe in that is right and just for all mankind.

We thank You for Your word. We thank You that the Bible tells us that the wicked flee when no one pursues, but the righteous are bold as a lion.

And our Father, we pray that You would grant us that boldness that we might work together for Your glory and for the good of man.

In Jesus' precious name we pray. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the House failed to concur in Senate Amendments to House Bill No. 659 by a vote of 40 ayes, 90 noes.

S.B. 563 Making appropriations to pay the additional cost of purchased utilities at certain institutions of higher education.

S.B. 1317 Relating to the conducting and financing of ceremonies and events for the inauguration of the governor and lieutenant governor.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 681.

House Conferees: Ceverha, Chairman; Jackson, Evans, Close, Hollowell.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1129.

House Conferees: Benedict, Chairman; Green of Harris, Criss, McFarland, Evans.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 287.

House Conferees: Nabers, Chairman; Donaldson, Evans, Lalor, Chavez.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 174.

House Conferees: Lalor, Chairman; Bode, G. Hill, G. Green, Whitehead.

All necessary rules suspended, and the Conference Committee Report on Sen. Bill No. 530 adopted by a vote of 99 Ayes, 37 Noes, 1 Present-Not Voting.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 595 by a non record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 385.

House Conferees: Hartung, Chairman; McLeod, Cofer, Ware, Washington.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 662.

House Conferees: Henderson, Chairman; Lauhoff, Lalor, Nowling, Cartwright.

All necessary rules suspended, and the Conference Committee Report on Sen. Bill No. 1129 adopted by a non record vote.

All necessary rules suspended, and the Conference Committee report on Senate Bill No. 1268 adopted by a non record vote.

All necessary rules suspended, and the Conference Committee Report on Sen. Bill No. 232 adopted by a non record vote.

The House refused to concur in Senate amendments to House Bill No. 1699 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Coody, Chairman; Hanna, Mayer, Looney, Nowlin.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2205 by a vote of 88 Ayes, 45 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1382 by a vote of 104 Ayes, 28 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 374 adopted by a non record vote.

All necessary rules suspended, and the Conference Committee report on Senate Bill No. 909 adopted by a non record vote.

The House refused to concur in Senate amendments to House Concurrent Resolution No. 74 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Henderson, Chairman; Hall of Denton, Bird, Emmett, Pierce.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1834 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1806 by a vote of 127 Ayes, 27 Noes, 1 Present-Not Voting.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 1168 adopted by a vote of 126 Ayes, 3 Noes, 3 Present-Not Voting.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 1170 adopted by a vote of 121 Ayes, 5 Noes, 2 Present-Not Voting.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 1169 adopted by a vote of 125 Ayes, 2 Noes, 2 Present-Not Voting.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 1171 adopted by a vote of 121 Ayes, 5 Noes, 5 Present-Not Voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 1843, To Committee on Finance.
H.B. 1372, To Committee on Natural Resources.
H.B. 1249, To Committee on Human Resources.
H.B. 856, To Committee on Human Resources.
H.J.R. 97, To Committee on Jurisprudence.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Human Resources might consider **H.B. 1249** today.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1060 RECOMMITTED

On motion of Senator Jones of Taylor and by unanimous consent, the Conference Committee Report on **H.B. 1060** was recommitted to the Conference Committee.

REPORT OF STANDING COMMITTEE

Senator Jones of Taylor submitted the following report for the Committee on Finance:

H.C.R. 193
H.B. 2122

(Senator Brooks in Chair)

CONFERENCE COMMITTEE REPORT HOUSE BILL 1626

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1626** have met and 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.

MAUZY
CREIGHTON
PARKER
KOTHMANN
On the part of the Senate

HEATLY
RUDD
BIRD
A. HILL
On the part of the House

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

CONFERENCE COMMITTEE ON HOUSE BILL 1389

Senator Parker called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the

differences between the two Houses on **H.B. 1389** and moved that the request be granted.

On motion of Senator Parker and by unanimous consent, the motion to grant the request was temporarily withdrawn.

SENATE RULE 74a SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 1076.**

SENATE BILL 1076 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 1076** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Massey

Amend Senate Bill No. 1076 by striking all below the enacting clause and substituting therefor the following:

SECTION 1. This Act may be cited as the Solid Waste Resource Recovery Financing Act.

SECTION 2. (a) It is the policy of this state to safeguard the health, general welfare, and physical property of the people from pollution resulting from solid waste by encouraging the processing of solid waste for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. The accomplishment of the purposes stated in this Act will further such policy and is for the health and welfare of the people of this state and for the improvement and protection of their properties. The issuer in carrying out the purposes of this Act will be performing an essential public function under the constitution.

(b) It is hereby determined by the legislature and also declared to be the policy of this state that the processing of solid waste for reuse is essential to the well-being and survival of its inhabitants and the protection of the environment and will be for the specific purpose of the conservation and development of the natural resources of the state within the meaning of Article XVI, Section 59(a), of the Texas Constitution through the prevention of further damage to or destruction of the environment resulting in further conservation and development of such natural resources and through the conservation of valuable material and energy resources which otherwise might be disposed of as solid waste.

SECTION 3. As used in this Act, unless the context requires a different definition:

(1) "Cost" as applied to the acquisition, construction, or improvement of solid waste resource recovery systems, including real property acquired therefor, shall include financing charges, interest prior to and during construction and for a period found to be reasonable by the issuer after completion of construction, expenses incurred for architectural and engineering services, license fees and royalties, legal services, plans, specifications, surveys, estimates, placing the solid waste resource recovery systems in operation, administration, and such other expenses as may be necessary or incident to such acquisition, construction, and improvement.

(2) "Governing body" means, with reference to an issuer, the commission, board of directors, trustees, or similar body charged by law with the governance of an issuer.

(3) "Issuer" means any district or authority created and existing under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution which is now or hereafter authorized under general law, special law, or any specific act to own a waste disposal system and which includes within its boundaries all of at least one county.

(4) "Person" means any individual, public agency as defined herein, public or private corporation, political subdivision or governmental agency of the United States of America or the state, copartnership, association, firm, trust, estate, or any other entity whatsoever.

(5) "Public agency" means any district or authority heretofore or hereafter created and existing under Article XVI, Section 59, or Article III, Section 52, of the Constitution of Texas, any incorporated city or town in the state, whether operating under general law or under its home-rule charter, or any other political subdivision or agency of the state having the power to own and operate solid waste collection, transportation, or disposal facilities or systems.

(6) "Real property" means lands, structures, franchises and interests in land, and air rights and any thing and right pertaining thereto, including but not limited to easements, rights-of-way, uses, leases, licenses, and incorporeal hereditaments, and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

(7) "Resolution" means the resolution, order, ordinance, or such other action as the case may be of the governing body authorizing the bonds.

(8) The term "solid waste" shall have the meaning as set forth in the Solid Waste Disposal Act, as amended (Article 4477-7, Vernon's Texas Civil Statutes).

(9) "Solid Waste resource recovery system" means any real property, buildings, structures, plants, works, facilities, equipment, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises which are used or useful in connection with the processing of solid waste to extract, recover, reclaim, salvage, reduce, concentrate, or convert energy or useful matter or resources whatever their form, including electricity, steam, or other forms of energy, and metal, fertilizer, glass, or other forms of metal and resources, from such solid waste, including any real property, buildings, structures, plants, works, facilities, equipment, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises used or useful in (i) the transportation, receiving, storage, transfer, and handling of solid waste, (ii) the preparation, separation, or processing of solid waste for reuse, (iii) the handling and transportation of recovered matter, resources, or energy, and (iv) the handling, transportation, and disposing of any nonrecoverable solid waste residue.

SECTION 4. (a) Each issuer is authorized to acquire, construct, and improve or cause to be acquired, constructed, and improved solid waste resource recovery systems for lease or sale as provided below. The issuer is also authorized to acquire real property as deemed appropriate by the issuer for the solid waste resource recovery systems. Such solid waste resource recovery systems may be located upon property owned by the issuer or upon property of another person or persons. The issuer is authorized to enter into leases with persons whereby such persons shall lease any solid waste resource recovery systems of the issuer. The issuer is authorized to sell such solid waste resource recovery systems to any person or persons, including a person or persons using such systems, such sale to be by installment payments or otherwise and upon such conditions as the issuer deems desirable. Any lease or other sales contract entered into pursuant to this Act may be for such term as the parties may agree

and shall provide that it shall continue in effect until the bonds specified therein or refunding bonds issued in lieu of such bonds are fully paid.

(b) Any public agency may contract with an issuer or with any person financing, acquiring, constructing, or improving a solid waste resource recovery system to sell, lease, or dedicate the use of any real property or any solid waste disposal facility or part thereof for use as a part of such solid waste resource recovery system on such terms as the public agency considers appropriate.

SECTION 5. (a) Each issuer is empowered to issue its negotiable bonds payable from revenues of the issuer for the purpose of paying the cost of acquiring, constructing, or improving or causing to be acquired, constructed, or improved solid waste resource recovery systems, including real property required for the solid waste resource recovery systems.

(b) The issuer may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the issuer or to meet any other needs of the issuer and may issue negotiable bond anticipation notes to borrow the money needed by the issuer. Bond anticipation notes may bear interest at any rate or rates not to exceed ten per cent and shall mature within one year of their date. The bond anticipation notes so issued will be taken up with the proceeds of bonds, or the bonds may be issued and delivered in exchange for and in substitution of such notes."

(c) Such bonds shall be authorized by resolution of the governing body and shall have characteristics and bear such designation as may be determined by the governing body, provided that the designation of the bonds shall include the name or names of the person or persons guaranteeing the contractual obligations of the person or persons leasing or purchasing such solid waste resource recovery systems, or if the solid waste resource recovery systems, or if the solid waste resource recovery systems are to be leased or purchased by a group of persons, the designation may state that a group of persons will be leasing or purchasing such solid waste resource recovery systems as therein provided. The bonds shall be signed by the presiding officer or the assistant presiding officer of the governing body, shall be attested by its secretary, and shall bear the seal of the issuer of the governing body. It is provided, however, that such signatures may be printed or lithographed on the bonds if authorized by the governing body, and such may be impressed on the bonds or may be printed or lithographed thereon. The issuer may adopt or use for any purpose the signature of any person who shall have been an officer, notwithstanding the fact that he may have ceased to be such officer at the time when bonds shall be delivered to a purchaser or purchasers. The bonds shall mature serially or otherwise in not to exceed 40 years, may bear interest at a rate or rates, may be sold at public or private sale at a price or under terms determined by the governing body to be the most advantageous reasonably obtainable within the discretion of the governing body, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be in coupon form with or without provisions for registration as to principal or may be registerable as to both principal and interest.

(d) Such bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(e) The bonds of any issuer shall be payable solely from and secured by a pledge of all or any part of the revenues of the issuer derived from the lease or sale of solid waste resource recovery systems and in certain events out of amounts attributable to the proceeds of such bonds or amounts obtained through the exercise of any remedy provided in any resolution of the governing body or in any trust indenture or other instrument securing the bonds or notes in the manner specified in such resolution, trust indenture, or instrument. Any such

pledge under this paragraph may reserve the right under conditions therein specified to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. Bonds issued for the purposes set out in this Act may be combined in the same issue with bonds issued for other purposes authorized by law.

(f) It shall be the duty of the governing body to fix and from time to time revise payments under leases and contracts for sale of the solid waste resource recovery systems of the governing body in order that such payments together with any other pledged revenues will be sufficient to pay such bonds and the interest thereon as the same mature and become due and to maintain the reserve or other funds as provided in the resolutions authorizing such bonds or the trust indenture or other instruments securing such bonds. The governing body shall have the power to direct the investment of money in the funds created by such resolutions, trust indentures, or other instruments securing the bonds; provided, however, that the issuer in its discretion may delegate this power to its authorized agent.

(g) From the proceeds from the sale of the bonds, the governing body may set aside amounts for payments into the interest and sinking fund and reserve funds, and provisions for such may be made in the resolution authorizing the bonds or the trust indenture or other instrument securing the bonds. Proceeds from the sale of the bonds shall be used for the payment of all expenses of issuing and selling the bonds. The proceeds from the sale of the bonds shall be invested in the manner set forth in the resolution authorizing the bonds or notes or the trust indenture or other instrument securing the bonds. Any bank or trust company with trust powers may be designated to act as depository of the proceeds of bonds or of sales contract or lease revenues. Such bank or trust company shall furnish such indemnifying bonds or pledge such securities as may be required by the issuer to secure the deposits.

(h) The resolution authorizing the issuance of the bonds or the trust indenture or other instrument securing them may provide that in the event of a default or under the conditions therein stated a threatened default in the payment of principal of or interest on bonds any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive pledged income, and such instruments may limit or qualify the rights of less than all of the holders of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the issuer's property or income.

(i) All such bonds shall be special obligations of the issuer payable solely from the revenues pledged to their payment and shall not be considered general obligations of the governing body, an issuer, or the State of Texas. The holder of the bonds shall never have the right to demand payment from money derived by taxation or any other revenues of the issuer except those revenues pledged to the payment of the bonds.

SECTION 6. The governing body is authorized to issue refunding bonds for the purpose of refunding the principal of and interest and redemption premium, if any, on outstanding bonds authorized by this Act. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the revenues pledged to the outstanding bonds for the security of the refunding bonds and may be secured by other or additional revenues and deed of trust liens. The provisions of this law with reference to the issuance by the governing body of bonds, their security, and their approval by the attorney general and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution

authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, which case the refunding bonds may be issued in an amount sufficient to pay the principal of, any redemption premium, and the interest on the original bonds to their option date or maturity date, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds.

SECTION 7. Any bonds, including refunding bonds, authorized by this law may be additionally secured to a trust indenture under which the trustee may be a bank having trust powers situated either within or outside the State of Texas. Such bonds within the discretion of the governing body may be additionally secured by a mortgage or a deed of trust lien or security interest upon designated solid waste resource recovery systems and all property, franchises, easements, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such solid waste resource recovery systems for the payment of the indebtedness, power to operate such solid waste resource recovery systems, and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the mortgage or the deed of trust lien or security interest in the properties, may contain any provisions prescribed by the governing body for the security of the bonds and the preservation of the trust estate and may make provision for amendment or modification thereof, may condition the right to expend the issuer's money or sell the issuer's solid waste resource recovery systems as provided therein, and may make such other provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Any purchaser at a sale made under the mortgage or the deed of trust lien where one is given shall be the absolute owner of the solid waste rsource recovery systems and rights so purchased. The trust indenture may also contain provisions governing the issuance of bonds to replace lost, stolen, or mutilated bonds.

SECTION 8. After any bonds, including refunding bonds, are authorized by the governing body, such bonds and the record relating to their issuance shall be submitted to the attorney general for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a lease or leases or a contract or contracts of sale theretofore made between the issuer and any person, such contracts may also be submitted to the attorney general. If such bonds have been authorized and if such contracts have been made in accordance with the constitution and laws of the State of Texas, he shall approve the bonds and such contracts, and the bonds then shall be registered by the comptroller of public accounts. After the bonds and the leases or other contracts of sale, if any, have been approved by the attorney general and the bonds registered by the comptroller of public accounts, such bonds and any such leases or contracts of sale shall be incontestable for any cause.

SECTION 9. All bonds issued pursuant to this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

SECTION 10. (a) All public agencies are authorized to enter into contracts with any person for the supply of solid waste, including contracts for

the collection and transportation of solid waste, for disposal at any solid waste resource recovery system financed under the provisions of this Act and may covenant and agree in such contracts to supply minimum quantities of solid waste and to pay minimum fees and charges for the right to have solid waste disposed of at such solid waste resource recovery system during the term of such contracts. Any such contract may continue in effect until the bonds issued with respect to such solid waste resource recovery system or refunding bonds issued in lieu of such bonds are fully paid.

(b) All public agencies are authorized to use and pledge any available revenues or resources whatsoever for and to the payment of amounts due under such contracts as a source or sources of payment thereof or as the sole source or sources or payment thereof and may covenant with respect thereto so as to assure the availability thereof when required. In addition, all public agencies are authorized to fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided pursuant to or in connection with any such contract, from its inhabitants or from any users or beneficiaries of such services or facilities, including specifically water charges, sewage charges, solid waste disposal fees and charges (including garbage collection or handling fees), and other fees and charges and to use and pledge same to make payments required under such contract and may covenant to do so in amounts sufficient to make all or any part of such payments when due. Further, any public agency having taxing power, which at the time of entering into any such contract is using its general funds (including its tax revenues) for the purpose of paying all or part of the costs of providing solid waste collection, transportation, and disposal services, may determine, agree, and pledge that to the exten: such public agency's net revenues derived from its solid waste disposal fees and charges (including garbage collection or handling fees) may not be sufficient to make the public agency's required payments under such contracts, such payments shall be payable from taxes.

SECTION 11. The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended relating to performance and payment bonds, shall apply to construction contract entered into by an issuer. An issuer may contract for the acquisition, construction, and improvement of any solid waste resource recovery system upon such terms and under such conditions as the governing body deems appropriate, including without limitation a contract pursuant to which a person agrees to perform and supply or cause to be performed and supplied all services and materials required in connection with the design, construction, and placing into operation of such solid waste resource recovery system; provided, however, that as to any such contract, notice of the time and place when and where such contract shall be let shall be published in a newspaper of general circulation within the boundaries of the issuer once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract and competitive proposals received in response to such notice will be analyzed and the contract shall be let to the responsible party making the proposal which will be most advantageous to the issuer and result in the best and most economical completion of the solid waste resources recovery system.

SECTION 12. Bonds issued hereunder and their transfer and the income therefrom shall at all times be free from taxation within this state. Any solid waste resource recovery systems that are the subject of any contract for purchase or lease under this Act shall be construed to be subject to ad valorem taxation payable by the person contracting with the issuer in accordance with the laws of this state.

SECTION 13. In the event any issuer in the exercise of the power of relocation or any other power makes necessary the relocation, raising, lowering, rerouting, or changing the grade of or altering the construction of any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipelines, all such necessary relocation, raising, lowering, rerouting, changing of grade, or alteration of construction shall be accompslished at the sole expense of the issuer, and such expense shall be paid from the proceeds of any bonds issued to finance solid waste resource recovery systems, the installation of which results in such expense. The term "sole expense" shall mean the actual cost such relocation, raising, lowering, rerouting, or changing the grade of or alteration of construction to provide comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

SECTION 14. Nothing in this Act diminishes or limits or is intended to diminish or limit the authority of the Texas Department of Water Resources, the Texas Department of Health, or local governments in the performing any of the powers, functions, and duties vested in such entities by other laws. The Solid Waste Disposal Act, as amended (Article 4477-7, Vernon's Texas Civil Statutes), shall be enforced without regard to ownership of any solid waste resource recovery systems financed under this Act.

SECTION 15. (a) Nothing in this Act affects the right of any private person to puruse against a person contracting with an issuer pursuant to this Act all common law remedies available to abate a condition of pollution or other nuisance or recover damages therefor or both. No person contracing with an issuer for the purchase or lease of solid waste resource recovery systems shall ever be entitled to urge the defense of sovereign immunity by reason of the ownership of such solid waste resource recovery systems by an issuer.

(b) Notwithstanding the provisions of this section, it is further provided that nothing in this Act shall in any way limit or diminish the power and authority of the Texas Department of Water Resources, the Texas Department of Health, or a local government to enact and enforce rules and regulations to carry out other duties authorized by the Solid Waste Disposal Act, as amended (Article 4477-7, Vernon's Texas Civil Statutes).

SECTION 16. This Act shall be cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds, the execution of the contracts, the performance of the other acts and procedures, and the pledge of revenues authorized hereby, without reference to any other general or special laws or specific acts or any restrictions or limitations contained therein, except as herein specifically provided; and in any case, to the extent of any conflict or inconsistency between any provision of this Act and any other provision of law (including any home-rule city charter provisions), this Act shall prevail and control; provided, however, that all issuers and public agencies shall have the right to use any other provisions of law not in conflict with the provisions of this Act to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this Act.

SECTION 17. Nothing in this Act shall be construed to violate any provision of the United States or state constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not.

SECTION 18. The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid; and the legislature hereby declares that the Act would have been enacted without such

invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision.

SECTION 19. The fact that issuers are in urgent need of the powers hereby granted by this Act and the crowded condition of the calendars create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 284 WITH HOUSE AMENDMENTS

Senator Short called **S.B. 284** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Robnett

Amend S.B. No. 284 as follows:

1. On line 9, insert "(a)" between "STUDENTS" and "The".
2. On lines 17 and 18, strike Section 2 and substitute:

(b) In this section, a person is finally convicted if the conviction has not been reversed on appeal and all appeals, if any, have been exhausted.

3. Renumber Section 3 as Section 2.

Amendment No. 2 - Robnett

Amend S.B. No. 284, Page 1, line 12, by deleting the following:

"who is a citizen of a country other than the United States attending the institution under a nonemmigrant visa issued by the Immigration and Naturalization Service and"

The amendments were read.

Senator Short moved that the Senate concur in the House amendments.

(President in Chair)

Senator Doggett made the substitute motion that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

Question on the substitute motion, the motion prevailed by the following vote: Yeas 15, Nays 15.

Yeas: Brooks, Clower, Doggett, Farabee, Howard, Jones of Harris, Kothmann, Mauzy, Meier, Ogg, Patman, Santiesteban, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Harris, Jones of Taylor, Longoria, McKnight, Mengden, Moore, Price, Short, Snelson, Traeger, Williams.

Absent: Parker.

The President announced he would vote "Aye" on the substitute motion.

SENATE RESOLUTION 724

Senator Mauzy offered the following resolution:

S.R. 724, Authorizing the Conference Committee on **S.B. 350** to make certain changes in the Conference Committee Report on **S.B. 350.**

The resolution was read.

On motion of Senator Mauzy and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RULE 103 SUSPENDED

On motion of Senator Mengden and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider **H.J.R. 97** today.

SENATE RULES SUSPENDED

On motion of Senator Andujar and by unanimous consent, Senate Rules 103 and 74 were suspended as they relate to **H.B. 1263.**

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House has discharged the Conference Committee on **H.B. 1060**, and has appointed the following committee: Davis, Chairman; Peveto, Hill of Travis, Schlueter, Von Dohlen.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULES SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rules 103 and 74 were suspended as they relate to **H.B. 571.**

CONFERENCE COMMITTEE REPORT SENATE BILL 1129

Senator Schwartz submitted the following Conference Committee Report:

Austin, Texas
May 27, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1129** have met and 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.

SCHWARTZ
WILLIAMS
CLOWER
PARKER
OGG
On the part of the Senate

McFARLAND
G. GREEN
BENEDICT
CRISS
CHAVEZ
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the jurisdiction of county courts at law in Brazoria and Galveston Counties, compensation of probate court judges in certain counties, selection of presiding judges of probate courts in Harris County, and the juvenile board and juvenile board of Galveston County.

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

SECTION 1. Subsection (b), Section 1, Article 1970-357 is amended to read as follows:

"(b) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County have the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and their jurisdiction is concurrent with that of the County Court of Brazoria County. Each county court at law has jurisdiction concurrent with the district court in eminent domain cases, [~~and~~] in

civil cases when the matter in controversy exceeds $500 and does not exceed [~~$5,000~~] $10,000, exclusive of interest [~~as provided by general law~~], and in proceedings under Title 3 of The Family Code.

SECTION 2. Chapter 434, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-110a.3, Vernon's Texas Civil Statutes), is amended by adding Sections 12a and 12b to read as follows:

Sec. 12. Within 10 days after the effective date of this section, the judges of the Probate Courts Nos. 1, 2, and 3 of Harris County shall draw lots for terms as presiding judge of the courts of probate of Harris County. The judge of the court drawing lot number one shall act in that capacity until the first Tuesday after the first Monday of January, 1980. The judge of the court drawing lot number two shall serve for the six-month period ending on the first Tuesday after the first Monday of July, 1980. The judge of the court drawing lot number three shall serve for the six-month period ending on the first Tuesday after the first Monday of January, 1981. Thereafter, the judges shall continue to serve in rotation as presiding judge for periods of six months. No judge may serve two consecutive terms as presiding judge. It is the duty of the presiding judge of the courts of probate of Harris County to equalize as nearly as possible the dockets of the Probate Courts Nos. 1, 2, and 3, so that each of the courts will have an equal number of the probate cases pending in Harris County. It is the duty of the presiding judge of the courts of probate of Harris County to call a conference twice during each six-month term for the purpose of consultation and counsel as to the state of business in probate matters in Harris County and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County. In order to carry out the duties of presiding judge, the presiding judge of the courts of probate of Harris County has the power to transfer to or from any of the Probate Courts Nos. 1, 2, or 3 any case the presiding judge deems proper.

"Section 12b. (1) Should there be created additional Probate Courts in Harris County, the judge of each new Probate Court shall serve as presiding judge for a period of six months with the first such six-month period to commence on the day following the expiration date of the term of the presiding judge of the most recently created Probate Court of Harris County.

"(2) If two or more new Probate Courts are created in Harris County, at the same time, then the judge of each of the new Probate Courts shall draw lots for the purpose of determining the order of rotation to be used in the selection of the presiding judge."

SECTION 3. Section 13, Chapter 520, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 1970-110a, Vernon's Texas Civil Statutes), is repealed.

SECTION 4. Chapter 906, Acts of the 62nd Legislature, 1971, as amended (Article 3883i-2, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. In all counties of this State having a population of not less than one million, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal census, the Commissioners Court shall fix the salary of each of the [~~Judges of the Probate Courts,~~] Judges of the County Courts at Law [~~,~~] and Judges of the County Criminal Courts at Law at not less than One Thousand Dollars ($1,000) less per annum than the total annual salary, including supplements, received by Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments. The salary of each of the Judges of the Probate Courts shall be fixed by the Commissioners Courts at not less than the total annual salary, including supplements, received by the Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments.

"Section 2. In all counties of this State having a population of not less than one million, five hundred thousand (1,500,000) inhabitants, according to the last preceding Federal census, the Commissioners Court shall fix the salary of the County Judge at not less than One Thousand Dollars ($1,000) more per annum than the total annual salary received by [~~Judges of the Probate Courts,~~] Judges of the County Courts at Law[,] and Judges of the County Criminal Courts at Law in such counties, which shall be paid in twelve (12) equal monthly installments. The salary of each of the Judges of the Probate Courts shall be fixed by the Commissioners Court at not less than the total annual salary, including supplements, received by the Judges of the District Courts in such counties, which shall be paid in twelve (12) equal monthly installments."

"Section 5. In all counties of this state having a population of not less than 700,000 inhabitants, according to the last preceding Federal census, the salary of each of the judges of the probate courts shall be fixed by the Commissioners Court at not less than the total annual salary, including supplements, received by the judges of the district courts in such counties, which shall be paid in twelve (12) equal monthly installments."

Section 6. JUVENILE BOARD. There is a juvenile board to be known as the Galveston County Juvenile Board, which is composed of the county judge, the judge of each statutory county court in Galveston County, and the judge of each district court in Galveston County. The juvenile board shall elect its chairman and other officers annually.

SECTION 7. DUTIES. The juvenile board shall meet at least once each month to review the work of the chief juvenile officer, juveniles, and the disposition of cases concerning juveniles pending before the juvenile courts. The juvenile board shall appoint a person of good moral character with at least a bachelor's degree in a field of study related to work with juveniles to serve as chief juvenile officer and shall appoint persons of good moral character to serve as juvenile officers for the county. The juvenile board shall fix the salaries and allowance for the chief juvenile officer and juvenile officers and shall employ a clerk for the office. The commissioners court shall provide the necessary funds for the payment of the salaries and expenses. All claims for expenses shall be certified by the chairman of the juvenile board to the commissioners court as being necessary in the performance of the duty of the officer. The appointment of the chief juvenile officer and juvenile officers shall be filed in the office of the county clerk and the officers shall take the oath to perform their duties and shall file the oaths in the office of the county clerk. The juvenile board may remove the chief juvenile officer or a juvenile officer at any time.

SECTION 8. COMPENSATION. The members of the juvenile board shall receive no compensation for their services on the board.

SECTION 9. ADVISORY BOARD. The commissioners court shall appoint a Citizens Juvenile Advisory Board composed of at least 15 interested citizens to consult with the Galveston County Juvenile Board and the commissioners court in regard to matters concerning juveniles. The Citizens Juvenile Advisory Board shall elect its chairman and other officers annually and may meet at its own discretion.

SECTION 10. Section 1b, Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953 (Article 1970-342, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) In addition to all other jurisdiction granted by law to the probate and county court, the court has concurrent jurisdiction with the district courts and the County Courts Nos. 1 and 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court.

All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1, 2, and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

"Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition."

SECTION 11. Section 3(b), Chapter 269, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1970-342a, Vernon's Texas Civil Statutes), is amended as follows:

(b) Probate matters, mental illness cases, [~~condemnation cases~~] and alcoholic hearings shall continue to be filed and docketed in the County Court of Galveston County and the County Court No. 2 of Galveston County in the same manner as they have been heretofore filed and docketed. Condemnation cases may be filed and docketed in the County Court of Galveston County, the Probate and County Court of Galveston County, County Court No. 1 of Galveston County or County Court No. 2 of Galveston County.

SECTION 12. Section 2, Chapter 269, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1970-342a, Vernon's Texas Civil Statutes), is amended by adding Subsection 3(d) to read as follows:

"(d) In addition to all other jurisdiction granted by law to the County Court No. 1, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 2 of Galveston County in juvenile matters and proceedings, and notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1, 2, and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

"Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition."

SECTION 13. Section 3(b), Chapter 133, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-342b, Vernon's Texas Civil Statutes) is amended to read as follows:

(b) Probate matters, mental illness cases, and alcoholic hearings, [~~and condemnation cases~~] shall continue to be filed and docketed in the County Court of Galveston County and the Probate and County Court of Galveston County in the same manner as they have been heretofore filed and docketed, except as may otherwise be agreed upon by consent of all judges of the county courts of Galveston County and the county probate courts. Condemnation cases may be filed and docketed in the County Court of Galveston County, the Probate and County Court of Galveston County, County Court No. 1 of Galveston County or County Court No. 2 of Galveston County.

SECTION 14. Section 2, Chapter 133, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-342b, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) In addition to all other jurisdiction granted by law to the County Court No. 2, the court has concurrent jurisdiction with the district courts, the probate and county court, and the County Court No. 1 of Galveston County in juvenile matters and proceedings, notwithstanding any other provision of the law relating to the designation of juvenile courts, each of these courts may serve as a juvenile court. All juvenile matters and proceedings shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall act as clerk in all juvenile proceedings, shall maintain all records, and shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1, 2, and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

"Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition."

SECTION 15. Section 2.07, Family District Court Act (Article 1926a, Vernon's Texas Civil Statutes) is amended to read as follows:

"Section 2.07. On the effective date specified in Section 3.02 of this Act, the 306th Judicial District is created. Its boundaries are coextensive with the boundaries of Galveston County, and its court, which replaces the Court of Domestic Relations for Galveston County, is the 306th District Court. The 306th District Court may be called the Family District Court for the 306th Judicial District. All juvenile matters and proceedings in Galveston County shall be filed originally with the district clerk on the docket of the 306th District Court. The district clerk shall transfer juvenile matters and proceedings to the other courts so that the County Courts Nos. 1 and 2, the Probate and County Court, and the 306th District Court will rotate trying all juvenile cases and holding detention hearings and other associated matters during a three-month period of each year, beginning with the County Court No. 1 during the first quarter of each year, the County Court No. 2 during the second quarter, the Probate and County Court during the third quarter, and the 306th District Court during the fourth quarter, except that the judge of the 306th District Court upon his own order may retain jurisdiction of or transfer to one of the other courts, that is, County Courts Nos. 1, 2, and the Probate and County Court, any such case as the judge of the 306th District Court may determine serves the needs of justice.

"Whenever possible, the court which presides over the initial hearing shall maintain exclusive jurisdiction over the case until final disposition."

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 350

Senator Mauzy called from the President's table the Conference Committee Report on **S. B. 350**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

Senator Mauzy moved the adoption of the Conference Committee Report.

On motion of Senator Mauzy and by unanimous consent, consideration of the Conference Committee Report was postponed.

Question - Shall the Conference Committee Report be adopted?

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House refused to concur in Senate amendments to House Bill No. 480 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Smith, Chairman; Caraway, Blythe, Fox, Simpson.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 281.

House Conferees: Lalor, Chairman; Jackson, Evans, Bode, Ceverha.

HCR 94, Commending World War II Staff Sergeant Luciano Adams.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON SENATE BILL 284 APPOINTED

The President asked if there were any motions to instruct the Conference Committee on **S.B. 284** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Short, Chairman; Mauzy, Jones of Taylor, Meier and Harris.

SENATE RULE 74a SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 139.**

SENATE BILL 139 WITH HOUSE AMENDMENT

Senator Brooks called **S.B. 139** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Bryant

Amend S.B. No. 139 by substituting the following for Sction 7:

"Section 7. APPROPRIATION. For foster care payments authorized by this act there is appropriated to the Department of Human Resources out of General Revenue Funds the sum of $1,747,288 for the fiscal year ending August 31, 1980 and the sum of $8,007,608 for the fiscal year ending August 31, 1981. For medical care payments authorized by this act there is appropriated to the Department of Human Resources the sum of $182,270 ($106,355 out of Federal Funds and $75,915 out of the Medical Assistance Fund) for the fiscal year ending August 31, 1980; $916,891 ($535,006 out of Federal Funds and $381,885 out of the Medical Assistance Fund) for the fiscal year ending August 31, 1981. Unexpended balances appropriated for foster care payments and medical care payments for the fiscal year ending August 31, 1980 are appropriated to the Department of Human Resources for the same purposes for the fiscal year ending August 31, 1981.

Section 8. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended."

The amendment was read.

Senator Brooks moved to concur in the House amendment.

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

(Senator Farabee in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 480

Senator Schwartz called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 480** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 480** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Schwartz, Chairman; Snelson, Ogg, Williams and Vale.

CONFERENCE COMMITTEE ON HOUSE BILL 442

Senator Andujar called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 442** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 442** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Andujar, Chairman; Blake, Howard, Ogg and Harris.

SENATE BILL 1155 WITH HOUSE AMENDMENT

Senator Schwartz called **S.B. 1155** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment 1 - Craddick

Amend **S.B. 1155** by striking Section 13 and renumbering all subsequent sections.

The amendment was read.

Senator Schwartz moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1155** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Schwartz, Ogg, Williams and Kothmann.

SENATE BILL 1154 WITH HOUSE AMENDMENT

Senator Brooks called **S.B. 1154** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Craddick

Amend S.B. No. 1154 by adding a new Section 16 to read as follows and renumber all subsequent sections:

SECTION 16. The board of directors may exclude territory from its boundaries, and issue refunding bonds to be repaid in whole or in part from taxes upon the territory remaining within its boundaries, in the following manner:

A. Prior to the issuance of refunding bonds, the proceeds of which are utilized to refund all of the authority's outstanding bond indebtedness, the board of directors may, upon its own motion, enter an order designating the territory which will be excluded from the boundaries of the authority and designating the boundaries of the authority as such boundaries will be redefined following the exclusion.

B. Following the entry of the order mentioned in Subsection 16A, the board of directors may call an election to authorize the issuance of the refunding bonds and the levy of ad valorem taxes to provide for the payment of the bonds, said tax to be levied upon the territory to remain within the redefined boundaries specified in the order set forth in Subsection 16A above. The election shall be called, conducted, canvassed and notice thereof given in the manner prescribed for other bond elections of the authority.

C. If the refunding bonds are approved at the election, the board of directors of the authority shall, upon adoption of its order authorizing the issuance of said bonds, finally adopt the order excluding territory and redefining boundaries which is mentioned in Subsection 16A hereof, to be effective on the date of the order authorizing the issuance of the refunding bonds; provided that the proceeds of the refunding bonds are received and applied in the manner specified in the bond order.

The amendment was read.

Senator Brooks moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1154** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Schwartz, Ogg, Williams and Kothmann.

SENATE BILL 1273 WITH HOUSE AMENDMENT

Senator Mengden called **S.B. 1273** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Watson

Amend Senate Bill No. 1273, page 2, by striking lines 5-7 and substituting the following:
"annexation covered by this section. Territory may not be annexed under this section without the written consent of a majority of the resident qualified voters of the municipal utility district."

The amendment was read.

Senator Mengden moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1273** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mengden, Chairman; Ogg, Williams, Brooks and Harris.

SENATE RULE 74a SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to **S.B. 1211.**

SENATE BILL 1211 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 1211** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Keller

Amend S.B. No. 1211 by striking "five" on page 6, line 9, and substituting "15".

The amendment was read.

Senator Traeger moved to concur in the House amendment.

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

SENATE BILL 479 WITH HOUSE AMENDMENT

Senator Mengden called **S.B. 479** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Untermeyer

Substitute the following for S.B. No. 479:

A BILL TO BE ENTITLED

AN ACT

relating to emergency assistance provided by local governments to other local governments.

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

SECTION 1. The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) is amended by adding Section 5A to read as follows:

"Section 5A. EMERGENCY ASSISTANCE. (a) A local government may provide emergency assistance to another local government, regardless of whether the local governments have previously agreed or contracted to provide that kind of assistance, if:

"(1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and

"(2) before the emergency assistance is rendered, the governing body of the local government that is to provide the assistance, by resolution or other official action, has authorized the local government to provide the assistance.

"(b) This section does not apply to emergency assistance rendered by law enforcement officers under Section 2, Chapter 81, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 999b, Vernon's Texas Civil Statutes)."

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

The amendment was read.

Senator Mengden moved to concur in the House amendment.

The motion prevailed.

SENATE RULES SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rules 103 and 74 were suspended as they relate to **H.B. 856.**

SENATE BILL 521 WITH HOUSE AMENDMENT

Senator Santiesteban called **S.B. 521** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Looney

Amend **C.S.S.B. 521** by striking the enabling legislation and substituting the following therefor:

A BILL TO BE ENTITLED
AN ACT

relating to approval of plans for construction and maintenance of levees; providing penalties.

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

SECTION 1. Section 16.238, Water Code, as amended, is amended to read as follows:

Sec. 16.238. CONSTRUCTION OF LEVEE WITHOUT APPROVAL OF PLANS. (a) No person [~~, corporation, or levee improvement district~~] may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained any levee or other such improvement on, along, or near any stream of this state that is subject to floods, freshets, or overflows so as to control, regulate, or otherwise change the floodwater of the stream without first obtaining approval of the plans by the commission.

(b) any person [~~, corporation, or levee improvement district~~] who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $100. A separate offense is committed each day a structure constructed in violation of this section is maintained.

(c) At the request of the executive director, the attorney general shall file suit in a district court of Travis County to enjoin any violation or threatened violation of this section. In the suit, the attorney general may seek to have the illegal levee or other improvement removed and the pre-existing conditions restored and may also collect civil penalties of up to $100 a day for each day a violation occurs.

(d) This section does not apply to:

(1) dams permitted by the commission or recognized as valid by final decree in any proceeding begun under Subchapter G, Chapter 11, of this code;

(2) dams authorized by Section 11.142 of this code;

"(3) a levee or other improvement within the corporate limit of a city or town provided: (a) plans for the construction or maintenance or both must be approved by the city or town as a condition precedent to starting the project and (b) the city or town requires that such plans be in substantial compliance with rules and standards adopted by the Board; or

"(4) a levee or other improvement within the boundaries of any political subdivision which has qualified for the National Flood Insurance Program as authorized by the National Flood Insurance Act of 1968 (Title 42, U.S.C.,

Sections 4001-4127) provided: (a) plans for the construction or maintenance or both must be approved by the political subdivision which is participating in the national flood insurance program as a condition precedent to starting the project and (b) the political subdivision requires that such plans be in substantial compliance with rules and standards adopted by the Board.

(5) projects implementing soil and water conservation practices set forth in a conservation plan with a landowner or operator and approved by the governing board of a soil and water conservation district organized under the State Soil Conservation Law (Article 165a-4, Vernon's Texas Civil Statutes) provided that the governing board finds the practices do not significantly affect stream flooding conditions on, along, or near a state stream.

(e) On projects located within the corporate limits of a city or town or within the boundaries of any political subdivision which are exempt from the provisions or this Section by paragraph d (3) or (4) above, any person whose property is located outside of the corporate limits of such city or town or of the boundaries of such a political subdivision and whose property is affected or potentially affected by the effect of the project on the floodwaters of the stream may appeal the decision of such political subdivision. The appeal shall be in writing and shall specify the grounds therefor and a copy shall be sent by certified mail to the project applicant and to the city or town or such political subdivision. The timely filing of such an appeal with the Executive Director suspends the decision of the city or town or political subdivision until a final decision is rendered by the Department. The Executive Director shall review the complaint and investigate the facts surrounding the nature of the complaint. If the Executive Director finds that the complaint is frivolous or non-meritorious or made solely for purposes of harassment or delay, then he shall dismiss the appeal. Otherwise, the Executive Director shall refer the appeal to the Commission who shall, after due notice, hold a hearing to determine whether the project should be approved using the standards established by the department and shall hear such appeal de novo under the procedural rules established by the Commission for other reclamation projects.

SECTION 2. However, this section does not apply to any stream which constitutes or defines the international boundary between the United States of America and the Republic of Mexico.

SECTION 3. Sections 57.093 and 57.102, Water Code, are repealed.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Mengden and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 322.**

SENATE BILL 322 WITH HOUSE AMENDMENT

Senator Mengden called **S.B. 322** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Polumbo, Von Dohlen

Amend SB 322 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 2.03, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.03. SCHEDULE I. (a) Schedule I shall [~~initially~~] consist of the controlled substances listed in this section.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Allylprodine;
(2) Benzethidine;
(3) Betaprodine;
(4) Clonitazene;
[~~(5) Dextrorphan;~~]
(5) [~~(6)~~] Diampromide;
(6) [~~(7)~~] Diethylthiambutene;
(7) Difenoxin;
(8) Dimenoxadol;
(9) Dimethylthiambutene;
(10) Dioxaphetyl butyrate;
(11) Dipipanone;
(12) Ethylmethylthiambutene;
(13) Etonitazene;
(14) Etoxeridine;
(15) Furethidine;
(16) Hydroxypethidine;
(17) Ketobemidone;
(18) Levophenacylmorphan;
(19) Meprodine;
(20) Methadol;
(21) Moramide;
(22) Morpheridine;
(23) Noracymethadol;
(24) Norlevorphanol;
(25) Normethadone;
(26) Norpipanone;
(27) Phenadoxone;
(28) Phenampromide;
(29) Phenomorphan;
(30) Phenoperidine;
(31) Piritramide;
(32) Proheptazine;
(33) Properidine;

(34) Propiram;
(35) Trimeperidine;
(36) Phencyclidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) [~~(9)~~] Etorphine (except hydrochloride salt);
(11) [~~(10)~~] Heroin;
(12) [~~(11)~~] Hydromorphinol;
(13) [~~(12)~~] Methyldesorphine;
(14) [~~(13)~~] Methyldihydromorphine;
(15) Monoacetylmorphine;
(16) [~~(14)~~] Morphine methylbromide;
(17) [~~(15)~~] Morphine methylsulfonate;
(18) [~~(16)~~] Morphine-N-Oxide;
(19) [~~(17)~~] Myrophine;
(20) [~~(18)~~] Nicocodeine;
(21) [~~(19)~~] Nicomorphine;
(22) [~~(20)~~] Normorphine;
(23) [~~(21)~~] Pholcodine;
(24) [~~(22)~~] Thebacon.

(d) Unless specifically excepted or unless listed in another schedule, any [~~A~~] material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its [~~their~~] salts, isomers, and salts of isomers[~~, unless specifically excepted,~~] whenever the existence of such [~~these~~] salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA) [~~3, 4-methylenedioxy amphetamine~~];

(2) 2,5-dimethoxyamphetamine (Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA) [~~5-methoxy 3, 4-methylenedioxy amphetamine~~];

(3) 4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA) [~~3,4,5-trimethoxy amphetamine~~];

(4) 5-methoxy-3,4-methylenedioxy amphetamine [~~Bufotenine~~];

(5) [~~(7)~~] 4-methyl-2,5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP") [~~Diethyltryptamine~~];

(6) 3,4-methylenedioxy amphetamine [~~Dimethyltryptamine~~];

(7) 3,4,5-trimethoxy amphetamine [~~4-methyl 2,5-dimethoxy amphetamine~~];

(8) Bufotenine (Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine) [~~Ibogaine~~];

(9) Diethyltryptamine (Some trade and other names: N,N-Diethyltryptamine, DET) [~~Lysergic acid diethylamide~~];

(10) Dimethyltryptamine (Some trade and other names: DMT) [~~Marihuana~~];

(11) Ibogaine (Some trade or other names: 7-Ethyl-6,6,beta,7,8,9,10,12,13,-octahydro-2-methoxy-6, 9-methano5H-pyrido [1',2',:1,2] azepino [5,4-b] indole; tabernanthe iboga);

(12) Lysergic acid diethylamide;

(13) Marihuana;

(14) Mescaline;

(15) [~~(12)~~] Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts;

(16) [~~(13)~~] N-ethyl-3-piperidyl benzilate;

(17) [~~(14)~~] N-methyl-3-piperidyl benzilate;

(18) [~~(15)~~] Psilocybin;

(19) Psilocin [~~(16) Psilocyn~~];

(20) [~~(17)~~] Tetrahydrocannabinols. [~~and~~]

Synthetic [~~synthetic~~] equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis [~~cannabis~~], and/or [~~or~~] synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.);

(21) Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP);

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation;

(1) Fenethylline;

(2) Mecloqualone; and

(3) Nitrazepam.

SECTION 2. Section 2.04, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.04. SCHEDULE II. (a) Schedule II shall [~~initially~~] consist of the controlled substances listed in this section.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, however produced:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:

(A) Raw opium;

(B) Opium extracts;

(C) Opium fluid extracts;

(D) Powdered opium;
(E) Granulated opium;
(F) Tincture of opium;
[~~(G) Apomorphine;~~]
(G) [~~(H)~~] Codeine;
(H) [~~(I)~~] Ethylmorphine;
(I) Etorphine hydrochloride;
(J) Hydrocodone;
(K) Hydromorphone;
(L) Metopon;
(M) Morphine;
(N) Oxycodone;
(O) Oxymorphone;
(P) Thebaine;

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subsection, but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Cocaine, including its salts, isomers (whether optical, position, or geometric) and salts of such isomers; [~~Coca leaves and any salt, compound, derivative, or preparation of~~] coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy);

(6) 1-Phenylcyclohexylamine; and

(7) 1-Piperidinocyclohexane-Carbonitrile.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine;
(2) Anileridine;
(3) Bezitramide;
(4) Dihydrocodeine;
(5) Diphenoxylate;
(6) Fentanyl;
(7) Isomethadone;
(8) Levomethorphan;
(9) Levorphanol;
(10) Metazocine;
(11) Methadone;

(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(14) Pethidine;

(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(18) Phenazocine;
(19) Piminodine;
(20) Racemethorphan;
(21) Racemorphan.

(d) Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine.

(e) [~~(d)~~] Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Methamphetamine, including its salts, isomers, and salts of isomers;
(3) Methylphenidate and its salts; and
(4) Phenmetrazine and its salts.

[~~(e) Methaqualone.~~]

(f) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Methaqualone;
(2) Amobarbital;
(3) Secobarbital;
(4) Pentobarbital.

SECTION 3. Section 2.05, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.05. SCHEDULE III. (a) Schedule III shall [~~initially~~] consist of the controlled substances listed in this section.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule;

(2) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) [~~(1)~~] any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(4) [~~(2)~~] Chlorhexadol;
(5) [~~(3)~~] Glutethimide;
(6) [~~(4)~~] Lysergic acid;
(7) [~~(5)~~] Lysergic acid amide;
(8) [~~(6)~~] Methyprylon;

[~~(7) Phencyclidine;~~]

(9) [~~(8)~~] Sulfondiethylmethane;
(10) [~~(9)~~] Sulfonethylmethane;
(11) [~~(10)~~] Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any compound, mixture, or preparation containing any stimulant listed in Subsection (e) [~~(d)~~] of Section 2.04 or depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(f) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such somers whenever the existence of such salts, isomers, and salts of isomers is possible, within the specific chemical designation:

(1) Benzphetamine;

(2) Chlorphentermine;

(3) Clortermine;

(4) Mazindol;

(5) Phendimetrazine.

SECTION 4. Section 2.06, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.06. SCHEDULE IV. (a) Schedule IV shall [~~initially~~] consist of the controlled substances listed in this section.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Barbital;

(2) Chloral betaine;

(3) Chloral hydrate;
(4) Chlordiazepoxide [~~Ethchlorvynol~~];
(5) Clonazepam [~~Ethinamate~~];
(6) Clorazepate [~~Methohexital~~];
(7) Diazepam [~~Meprobamate~~];
(8) Ethchlorvynol [~~Methylphenobarbital~~];
(9) Ethinamate [~~Paraldehyde~~];
(10) Flurazepam [~~Petrichloral~~];
(11) Lorazepam [~~Phenobarbital~~];
(12) Mebutamate;
(13) Meprobamate;
(14) Methohexital;
(15) Methylphenobarbital;
(16) Oxazepam;
(17) Paraldehyde;
(18) Pentazocine, its salts, derivatives, or compounds or mixtures thereof;
(19) Petrichloral;
(20) Phenobarbital;
(21) Prazepam.

(c) Any compound, mixture, or preparation containing any depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(d) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific designation:

(1) Diethylpropion;
(2) Phentermine;
(3) Fenfluramine;
(4) Pemoline (including organometallic complexes and chelates thereof).

(e) OTHER SUBSTANCES. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

SECTION 5. Section 2.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.07. SCHEDULE V. (a) Schedule V shall [~~initially~~] consist of the controlled substances listed in this section.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon

the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams.

(6) not more than 0.5 milligram of difenoxin and not less than 25 milligrams of atropine sulfate per dosage unit.

(c) Loperamide.

SECTION 6. Subsections (b), (c), (d), and (e) of Section 4.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) PENALTY GROUP 1. Penalty Group 1 shall include the following controlled substances:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Allylprodine;
(B) Benzethidine;
(C) Betaprodine;
(D) Clonitazene;
[~~(E) Dextrorphan;~~]
(E) [~~(F)~~] Diampromide;
(F) [~~(G)~~] Diethylthiambutene;
(G) Difenoxin;
(H) Dimenoxadol;
(I) Dimethylthiambutene;
(J) Dioxaphetyl butyrate;
(K) Dipipanone;
(L) Ethylmethylthiambutene;
(M) Etonitazene;
(N) Etoxeridine;
(O) Furethidine;
(P) Hydroxypethidine;
(Q) Ketobemidone;
(R) Levophenacylmorphan;
(S) Meprodine;
(T) Methadol [~~Methodol~~];
(U) Moramide;
(V) Morpheridine;
(W) Noracymethadol;
(X) Norlevorphanol [~~Norlevorphanol~~];
(Y) Normethadone;
(Z) Norpipanone;
(AA) Phenadoxone;
(BB) Phenampromide;

(CC) Phenomorphan;
(DD) Phenoperidine;
(EE) Piritramide;
(FF) Proheptazine;
(GG) Properidine;
(HH) Propiram;
(II) Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;
(B) Acetyldihydrocodeine;
(C) Benzylmorphine;
(D) Codeine methylbromide;
(E) Codeine-N-Oxide;
(F) Cyprenorphine;
(G) Desomorphine;
(H) Dihydromorphine;
(I) Drotebanol;
(J) [~~(I)~~] Etorphine;
(K) [~~(J)~~] Heroin;
(L) [~~(K)~~] Hydromorphinol;
(M) [~~(L)~~] Methyldesorphine;
(N) [~~(M)~~] Methyldihydromorphine;
(O) Monoacetylmorphine;
(P) [~~(N)~~] Morphine methylbromide;
(Q) [~~(O)~~] Morphine methylsulfonate;
(R) [~~(P)~~] Morphine-N-Oxide;
(S) [~~(Q)~~] Myrophine;
(T) [~~(R)~~] Nicocodeine;
(U) [~~(S)~~] Nicomorphine;
(V) [~~(T)~~] Normorphine;
(W) [~~(U)~~] Pholcodine;
(X) [~~(V)~~] Thebacon.

(3) Any of the following substances, except those narcotic drugs listed in another group, however produced:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:

(i) Raw opium;
(ii) Opium extracts;
(iii) Opium fluid extracts;
(iv) Powdered opium;
(v) Granulated opium;
(vi) Tincture of opium;
[~~(vii) Apomorphine;~~]
(vii) [~~(viii)~~] Codeine;
(viii) [~~(ix)~~] Ethylmorphine;
(ix) [~~(x)~~] Hydrocodone;
(x) [~~(xi)~~] Hydromorphone;
(xi) [~~(xii)~~] Metopon;
(xii) [~~(xiii)~~] Morphine;
(xiii) [~~(xiv)~~] Oxycodone;

(xiv) [~~(xv)~~] Oxymorphone;

(xv) [~~(xvi)~~] Thebaine;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (A), but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, coca [~~Coca~~] leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(E) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(4) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Alphaprodine;

(B) Anileridine;

(C) Bezitramide;

(D) Dihydrocodeine;

(E) Diphenoxylate;

(F) Fentanyl;

(G) Isomethadone;

(H) Levomethorphan;

(I) Levorphanol;

(J) Metazocine;

(K) Methadone;

(L) Methadone-Intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(M) Moramide-Intermediate,
2-methyl-3-morpholino [~~morpholine~~]-1,
1-diphenyl-propane-carboxylic acid;

(N) Pethidine;

(O) Pethidine-Intermediate-A,
4-cyano-1-methyl-4-phenylpiperidine;

(P) Pethidine-Intermediate-B,
ethyl-4-phenylpiperidine-4 carboxylate;

(Q) Pethidine-Intermediate-C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;

(R) Phenazocine;

(S) Piminodine;

(T) Racemethorphan;

(U) Racemorphan.

(5) Lysergic acid diethylamide, including its salts, isomers, and salts of isomers.

(6) Methamphetamine, including its salts, isomers, and salts of isomers.

(7) 1-Phenylcyclohexylamine;

(8) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;

(9) 1-Piperidinocyclohexane-Carbonitrile;

(10) Phencyclidine.

(c) PENALTY GROUP 2. Penalty Group 2 shall include the following controlled substances: (1) Any [~~any material, compound, mixture, or preparation which contains any~~] quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):

(A) 4-bromo-2, 5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA) [~~3,4-methylenedioxy amphetamine~~];

(B) 2,5-dimethoxyamphetamine (Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA) [~~5-methoxy-3,4-methylenedioxy amphetamine~~];

(C) 4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA) [~~3,4,5 trimethoxy amphetamine~~];

(D) 5-methoxy-3,4-methylenedioxy amphetamine [~~Bufotenine~~];

(E) 4-methyl-2,5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP") [~~Diethyltryptamine~~];

(F) 3,4-methylenedioxy amphetamine [~~Dimethyltryptamine~~];

(G) 3,4,5-trimethoxy amphetamine [~~4-methyl 2,5 dimethoxyamphetamine~~];

(H) [~~(D)~~] Bufotenine (Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine) [~~Ibogaine~~];

(I) Diethyltryptamine (Some trade and other names: N,N-Diethyltryptamine, DET) [~~Mescaline~~];

(J) Dimethyltryptamine (Some trade and other names: DMT) [~~N-ethyl-3-piperidyl benzilate~~];

(K) Ibogaine (Some trade or other names: 7-Ethyl-6,6,beta7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2',:1,2] azepino [5,4-b] indole; tabernanthe iboga.) [~~N-methyl 3 piperidyl benzilate~~];

(L) Mescaline [~~Psilocybin~~];

(M) N-ethyl-3-piperidyl benzilate [~~Psilocyn~~];

(N) N-methyl-3-piperidyl benzilate;

(O) Psilocin;

(P) Psilocybin;

(Q) Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis [~~cannabis~~], and/or [~~or~~] synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

(R) Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP);

(S) Etorphine Hydrochloride.

(d) PENALTY GROUP 3. Penalty Group 3 shall include the following controlled substances:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Fenethylline;

(C) [~~(B)~~] Methylphenidate and its salts; [~~and~~]

(D) [~~(C)~~] Phenmetrazine and its salts; [~~.~~]

(2) Methaqualone; [~~.~~]

(3) Mecloqualone.

(4) [~~(3)~~] Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(A) Any substances which contain any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise covered by this subsection;

(B) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients which are not listed in any schedule;

(C) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

(D) Amobarbital;

(E) Secobarbital;

(F) Pentobarbital [~~Methyprylon~~];

(G) Chlordiazepoxide;

(H) Clonazepam;

(I) Clorazepate;

(J) [~~(B)~~] Chlorhexadol;

(K) Diazepam;

(L) Flurazepam;

(M) [~~(C)~~] Glutethimide;

(N) Lorazepam;

(O) [~~(D)~~] Lysergic acid, including its salts, isomers, and salts of isomers;

(P) [~~(E)~~] Lysergic acid amide, including its salts, isomers, and salts of isomers;

(Q) Mebutamate;

(R) Methyprylon;

(S) Nitrazepam;

(T) Oxazepam;

(U) Pentazocine, its salts, derivatives, or compounds or mixtures thereof;

(V) Prazepam [~~(G) Phencyclidine~~];

(W) [~~(H)~~] Sulfondiethylmethane;

(X) [~~(I)~~] Sulfonethylmethane;

(Y) [~~(J)~~] Sulfonmethane.

(5) [~~(4)~~] Nalorphine.

(6) [~~(5)~~] Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(A) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(C) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(F) [~~(G)~~] not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(G) [~~(H)~~] not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(H) [~~(I)~~] not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(I) not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(7) [~~(6)~~] Any compound, mixture, or preparation containing any stimulant listed in Subsection (d)(1) of this section or depressant substance listed in Subsection (d)(4)[~~(2)~~] of this section is excepted if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(8) [~~(7)~~] Any material, compound, mixture or preparation which contains any quantity of the following substances:

(A) Barbital;
(B) Chloral betaine;
(C) Chloral hydrate;
(D) Ethchlorvynol;
(E) Ethinamate;
(F) Methohexital;
(G) Meprobamate;
(H) Methylphenobarbital;
(I) Paraldehyde;
(J) Petrichloral;
(K) Phenobarbital.

(9) [~~(8)~~] Any compound, mixture, or preparation containing any depressant substance listed in Subsection (d)(8) [~~(7)~~] is excepted if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(10) [~~(9)~~] Peyote, unless unharvested and growing in its natural state[~~.~~], (meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts);

(11) Unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of its isomers, if the existence of the salts, isomers, and salts of isomers is possible, within the specific chemical designation:

(A) Benzphetamine;

(B) Chlorphentermine;

(C) Clortermine;

(D) Diethylpropion;

(E) Fenfluramine;

(F) Mazindol;

(G) Pemoline (including organometallic complexes and chelates thereof);

(H) Phendimetrazine;

(I) Phentermine.

(12) OTHER SUBSTANCES. Unless specifically excepted or unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(A) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(e) PENALTY GROUP 4. Penalty Group 4 shall include the following controlled substances: (1) Any [~~any~~] compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) [~~(1)~~] not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) [~~(2)~~] not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) [~~(3)~~] not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) [~~(4)~~] not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) [~~(5)~~] not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams.

(F) [~~(6)~~] not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Loperamide.

SECTION 7. This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense governed by the Texas Controlled Substances Act that is committed before this Act's effective date is governed by the law existing before this Act's effective date, which law is continued in effect for this purpose as if this Act were not in force. 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 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Mengden moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 844 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 844** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Hendricks

Substitute the following for **S.B. 844**:
relating to providing uniform adult probation and supervision of persons convicted of certain criminal offenses; repealing Article 42.13 (and enacting a new Article 42.13), Code of Criminal Procedure, 1965, as amended, and Chapter 164, Acts of the 59th Legislature, Regular Session, 1965 (Article 784a, Vernon's Texas Code of Criminal Procedure, 1925); providing a severability clause; and declaring an emergency.

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

SECTION 1. Article 42.13, Code of Criminal Procedure, 1965, as amended, is repealed, and a new Article 42.13, Code of Criminal Procedure, 1965, is enacted to read as follows:

"Article 42.13.

"Section 1. It is the purpose of this Article to place wholly within the State courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is the further purpose of this Article to remove from existing statutes the limitations other than questions of constitutionality that have acted as barriers to an effective system of probation in the public interest.

"Section 2. This Article may be cited as the 'Misdemeanor Adult Probation and Supervision Law.'

"Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Article:

"(1) 'Courts' shall mean courts of record having original criminal jurisdiction.

"(2) 'Probation' shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended;

"(3) 'Probationer' means a defendant who is on probation;

"(4) 'Probation officer' shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis.

"Section 3. The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty or nolo contendere for any crime or offense, where the punishment assessed against the defendant is by confinement in jail or by fine or by both such fine and imprisonment, to suspend the imposition of the sentence and may

place the defendant on probation or impose a fine applicable to the offense committed and also place the defendant on probation as hereinafter provided. When imprisonment is assessed, the period of probation shall be for the maximum imprisonment applicable to such offense. Any such person placed on probation, whether in a trial by jury or before the court, shall be under the supervision of such court.

"Section 3a. Where there is a conviction in any court of this State and the punishment assessed by the jury shall be by imprisonment in jail or by a fine or by both such fine and imprisonment, the jury may recommend probation for a period of the maximum imprisonment applicable to such offense of which the defendant is convicted, upon sworn motion made therefor by the defendant, filed before the trial begins. When the jury recommends probation, it may recommend that the imprisonment or fine or both such fine and imprisonment found in its verdict may be probated. When the trial is to a jury and the defendant has no counsel, the court shall inform the defendant of his right to make such motion, and the court shall appoint counsel to prepare and present same, if desired by the defendant. In no case shall probation be recommended by the jury except when the sworn motion and proof shall show, and the jury shall find in their verdict that the defendant has never before been convicted of a felony in this or any other state. This law is not to be construed as preventing the jury from passing on the guilt of the defendant, but the defendant may enter a plea of not guilty. In all eligible cases, probation shall be granted by the court, if the jury recommends it in their verdict.

"If probation is granted by the jury, the court may impose only those conditions which are set out in Section 6 hereof.

"Section 3b. Where probation is recommended by the verdict of a jury as provided for in Section 3a above, a defendant's probation shall not be revoked during his good behavior, so long as the defendant is within the jurisdiction of the court and his residence is known, except in accordance with the provisions of Section 8 of this Article. If such defendant has no counsel, it shall be the duty of the court to inform the defendant of his right to show cause why the defendant's probation should not be revoked; and if the defendant requests such right, the court shall appoint counsel in accordance with Articles 26.04 and 26.05 of this code to prepare and present the same; and in all other respects the procedure set forth in Section 8 of this Article shall be followed.

"Section 3c. Nothing herein shall limit the power of the court to grant a probation of sentence regardless of the recommendation of the jury or prior conviction of the defendant.

"Section 3d. (a) When in its opinion the best interest of society and the defendant will be served, the court may, after receiving a plea of guilty or a plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt and place the defendant on probation on reasonable terms and conditions as the court may require and for a period as the court may subscribe not to exceed the maximum period of imprisonment prescribed for the offense for which defendant is charged. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the deferment of adjudication, the court shall proceed to final adjudication as in all other cases.

"(b) On violation of a condition of probation imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 8 of this Article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After

an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

"(c) On expiration of a probationary period imposed under Subsection (a) of this section, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge the defendant. The court may dismiss the proceedings and discharge the defendant prior to the expiration of the term of probation if in its opinion the best interest of society and the defendant will be served. A dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that upon conviction of a subsequent offense, the fact that the defendant had previously received probation shall be admissible before the court or jury to be considered on the issue of penalty.

"Section 3e. (a) For the purposes of this section, the jurisdiction of the courts in this state in which a sentence requiring confinement in a jail is imposed for conviction of a misdemeanor shall continue for a period of 90 days from the date the execution of the sentence actually begins. After the expiration of 10 days but prior to 90 days from the date the execution of the sentence actually begins, the judge of the court that imposed such sentence may on his own motion or on the motion of the defendant, suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article if, prior to the execution of that sentence, the defendant had never been incarcerated in a penitentiary or jail serving a sentence for a felony or misdemeanor and in the opinion of the judge the defendant would not benefit from further incarceration in a jail.

"(b) When the defendant files a written motion with the court requesting suspension of further execution of the sentence and placement on probation, or when requested to do so by the judge, the clerk of the court shall request a copy of the defendant's record while incarcerated from the agency operating the jail where the defendant is incarcerated. Upon receipt of such request, the agency operating the jail where the defendant is incarcerated shall forward to the court as soon as possible, a full and complete copy of the defendant's record while incarcerated.

"Section 4. When directed by the court, a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. Defendant, if not represented by counsel, counsel for defendant and counsel for the state shall be afforded an opportunity to see a copy of the report upon request. If a defendant is committed to any institution the probation officer shall send a report of such investigation to the institution at the time of commitment.

"Section 5. Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this state having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court. Any court having geographical jurisdiction where the

defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

"Section 6. The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such delivery on the docket. Terms and conditions of probation may include but shall not be limited to, the conditions that the probationer shall:

"a. Commit no offense against the laws of this State or of any other State or of the United States;

"b. Avoid injurious or vicious habits;

"c. Avoid persons or places of disreputable or harmful character:

"d. Report to the probation officer as directed by the court or probation officer and obey all rules and regulations of the probation department.

"e. Permit the probation officer to visit him at his home or elsewhere;

"f. Work faithfully at suitable employment as far as possible;

"g. Remain within a specified place;

"h. Pay his fine, if one be assessed, and all court costs, whether a fine be assessed or not, in one or several sums and make restitution or reparation in any sum that the court shall determine;

"i. Support his dependents;

"j. Participate in any community-based program; or participate in an alcohol or drug abuse treatment or education program and abstain from the use of alcoholic beverages or specified drugs at all times or under certain circumstances,

"k. Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

"l. Remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;

"m. Pay a percentage of his income to his dependents for their support while under custodial supervision in the community-based facility; and

"n. Pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense.

"Section 6a. (a) A court granting probation may fix a fee not exceeding $15 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

"(b) The court shall deposit the fees received under Subsection (a) of this section in the special fund of the county treasury provided by Section 4.05(b), Article 42.121 of this Code, to be used for the same purposes for which state-aid may be used under that section.

"Section 6b. (a) When the court having jurisdiction of the case grants probation to the defendant, in addition to the conditions imposed under Section 6 of this article, the court may require as a condition of probation that the defendant submit to a period of detention in jail to serve a term of imprisonment not to exceed 30 days or one-third of the sentence, whichever is lesser.

"(b) The imprisonment imposed shall be treated as a condition of probation, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent imprisonment.

"Section 6c. If a person convicted of an offense under Article 6701 1-1, Revised Civil Statutes of Texas, 1925, as amended, is placed on probation, the court may require, as a condition of the probation, that the defendant attend an educational program, approved by the Texas Commission on Alcoholism, the Texas Department of Public Safety or the Office of Traffic Safety, designed to rehabilitate persons who have driven while intoxicated. The judge shall waive this requirement, however, if no program is operated within 60 miles of the defendant's residence."

"Section 7. At any time after the defendant has satisfactorily completed one-third of the original probationary period, the period of probation may be reduced or terminated by the court. Upon the satisfactory fulfillment of the conditions of probation and the expiration of the period of probation, the court by order duly entered shall amend or modify the original sentence imposed, if necessary, to conform to the probation period and shall discharge the defendant. In case the defendant has been convicted or has entered a plea of guilty or a plea of nolo contendere and the court has discharged the defendant hereunder, such court shall set aside the verdict or permit the defendant to withdraw his plea, and shall dismiss the accusation, complaint, information, or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which defendant has been convicted or to which defendant has pleaded guilty or pleaded nolo contendere, except that proof of defendant's conviction or plea of guilty or nolo contendere shall be made known to the court should the defendant again be convicted of any criminal offense.

"Section 8. (a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. The court may continue the hearing for good cause shown by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation, or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted.

"(b) Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that defendant shall be sentenced to serve. The right of the probationer to appeal to the Court of Criminal Appeals for a review of the trial and conviction, as provided by law, shall be accorded the probationer at the time the defendant is placed on probation. When the

probationer is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a sentence in jail or in an institution operated by the Texas Department of Corrections, he may appeal the revocation.

"(c) In a probation revocation hearing at which it is alleged only that the probationer violated the conditions of probation by failing to pay probation fees, court costs, restitution, or reparations or compensation paid to appointed counsel, the inability of the probationer to pay as ordered by the court is an affirmative defense to revocation, which the probationer must prove by a preponderance of evidence.

"Section 9. If for good and sufficient reasons probationers desire to change their residence within the state, such transfer may be effected by application to their supervising probation officer, which transfer shall be subject to the court's consent and subject to such regulations as the court may require in the absence of a probation officer in the locality to which the probationer is transferred.

"Section 10. For the purpose of providing adequate probation services under this article, all of the provisions of Section 10 of Article 42.12 of the Code of Criminal Procedure, 1965, as amended, apply hereto.

"Section 11. For the purpose of determining when fees are to be paid to any officer or officers, the placing of the defendant on probation shall be considered a final disposition of the case, without the necessity of waiting for the termination of the period of probation or suspension of sentence."

SECTION 2. Chapter 164, Acts of the 59th Legislature, Regular Session, 1965 (Article 784a, Vernon's Texas Code of Criminal Procedure, 1925), and **H.B. 588**, Acts of the 66th Legislature, 1979, are repealed.

SECTION 3. If any provision, section, or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision, section, or clause, and to this end the provisions of this Act are declared to be severable.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - Maloney

Amend C.S.S.B. No. 844, Page 3, line 11, (1) by inserting between the words "before" and "the" the phrase "the pealty stage of" and

(2) on Page 3, line 18, by deleting the words "sworn motion and" and substituting therefor the following:

"defendant, before the trial began, had filed a sworn statement that the defendant has never before been convicted of a felony, and after conviction and before the penalty stage of the trial began, the defendant shall have filed a sworn motion for probation and the"

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Mengden and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 27.**

SENATE BILL 27 WITH HOUSE AMENDMENTS

Senator Mengden called **S.B. 27** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Grant

Amend **S.B. 27** by striking all above the enacting clause and substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to the name, membership, and duties of The Prosecutor Council and the suspension or removal of a prosecuting attorney; providing for a prosecuting attorney pro tempore; relating to the financing of the Council; amending Sections 2, 3, 4, 7, 8, and 10 (d), (e), (h), (l), and (m) of Chapter 345, Acts of the 65th Legislature, Regular Session, 1977 (Article 332d, Vernon's Texas Civil Statutes); adding new Sections 10A, 10B, and 13 to and repealing Section 12 of said chapter.

Committee Amendment No. 2 - Grant

Amend S.B. No. 27 as follows:

(1) Strike Section 2 of the bill and substitute the following:

SECTION 2. Section 3, Chapter 345, Acts of the 65th Legislature, Regular Session, 1977 (Article 332d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. (a) The council shall be composed of nine members, selected as follows:

(1) five [~~four~~] citizens of the State of Texas, who are not licensed to practice law, appointed by the Governor of Texas, with the advice and consent of the senate. In making such appointments, the governor shall give due consideration to geographical areas of the state and their population diversities; and

(2) [~~the president of the Texas District and County Attorneys Association; and~~

[~~(3)~~] four incumbent, elected prosecuting attorneys to be elected [~~selected~~] by the membership of the Texas District and County Attorneys Association, at least one each of whom shall be a county attorney, a district attorney, and a criminal district attorney.

(b) For purposes of this Act, "prosecuting attorney" means the person who holds the office of county attorney, district attorney, or criminal district attorney, and represents the State of Texas in criminal cases, including those holding the office pro tempore. The duties of prosecuting attorneys who are members of the council shall be additional to those of their elected position, and membership on the council shall not constitute dual officeholding.

(2) Strike Section 3 of the bill and substitute the following:

SECTION 3. Section 7, Chapter 345, Acts of the 65th Legislature, Regular Session, 1977, Article 332d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. (a) The council shall meet at least twice each year and shall hold such other meeting as may be necessary. The chairman shall be elected by the council from among the prosecuting attorney members for a term of two years. The [~~The president of the Texas District and County Attorneys Association shall serve as chairman of the council, and the~~] council shall designate from among its members a vice-chairman who shall serve a one-year term and who may be reelected. The Chairman shall preside over the meetings, and in his absence the vice-chairman shall preside. The council shall establish its own procedures with respect to its meetings, and five members shall constitute a quorum for the transaction of business. A majority vote of the members present and voting shall be required for approval of any action authorized by this Act.

(b) The council shall appoint an executive director who shall be an attorney licensed by the Supreme Court of Texas. The executive director shall perform the functions and duties assigned him by the council and shall represent the council in all cases in the courts of the state or of the United States [~~in which the council is a party~~].

(3) Strike Section 9 of the bill and substitute the following:

SECTION 9. Section 4, Chapter 345, Acts of the 65th Legislature, Regular Session, 1977 (Article 332d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. Each member of the council[~~, other than the president of the Texas District and County Attorneys Association,~~] shall serve overlapping six-year [~~four-year~~] terms. Initially, the governor shall appoint two citizens for two years, one citizen for four years, and two citizens for six years. Initially, one prosecuting attorney shall be elected for two years, two prosecuting attorneys shall be elected for four years, and one prosecuting attorney shall be elected for six years [~~two of the citizens appointed by the governor and two of the prosecuting attorneys shall serve a two-year term~~]. The terms of the present members shall expire on December 31, 1979 [~~begin January 1 following the effective date of this Act~~], and each member shall continue to serve until his successor has been appointed or elected.

(4) Renumber Section 10 as Section 11 and add Section 10 to read as follows:

SECTION 10. Chapter 345, Acts of the 65th Legislature, Regular Session, 1977 (Article 332d, Vernon's Texas Civil Statutes), is amended by adding Section 13 to read as follows:

Sec. 13. No prosecuting attorney shall be reprimanded or removed for misconduct as defined by Section 10 of this Act occurring more than four years prior to the time of filing of a complaint with the council, but limitation will not run where fraud or concealment is involved until the misconduct is discovered or should have been discovered by reasonable diligence. The complaint shall be considered as filed when made in writing to the executive director of the council. It is the intention of the legislature that there continue to be no restrictions to the reprimand or removal of a prosecuting attorney other than those stated in this Act.

Amendment No. 3 - Grant

Amend S.B. No. 27 as follows:

(1) Add "and" at the end of Subdivision (8) on page 3, line 10.

(2) Strike all of Subdivision (9) on page 3, lines 11-17.
(3) Renumber Subdivision (10) as Subdivision (9).

The amendments were read.

Senator Mengden moved to concur in the House amendments.

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

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House refused to concur in Senate amendments to House Bill No. 1389 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Crawford, Chairman; Delco, Rains, Rudd, Haley

The House refused to concur in Senate amendments to House Bill No. 2142 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Delco, Crawford, Madla, Cain, Thompson of Taylor

The House refused to concur in Senate amendments to House Bill No. 2146 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Delco, Crawford, Madla, Cain, Thompson of Taylor

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 284

House Conferees: Robnett, Chairman; Maloney, Fox, Gibson of Ector, Grubbs.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1389

Senator Parker called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1389** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1389** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chairman; Mauzy, Vale, Williams and Snelson.

(Senator Brooks in Chair)

CONFERENCE COMMITTEE REPORT ON SENATE BILL 296 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 296.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Blake, Creighton, Harris, Mengden, Moore.

SENATE BILL 428 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 428** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Bird

Amend Senate Committee Substitute for **S.B. 428** by striking subsection 7(a) and substituting the following:

"(a) The Presiding Judge may employ, directly or through a contract with another governmental entity, an administrative assistant, on a full or part-time basis, to aid and assist the Presiding Judge in carrying out the judge's duties under this Act. The administrative assistant shall receive the compensation from the State provided by the General Appropriations Act."

Amendment No. 2 - Benedict

Amend **S.B. 428** by renumbering Section 5 as Section 6 and inserting a new Section 5 to read as follows:

Section 5. Chapter 156, Acts of the 49th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), is amended by adding a new Section 5c to read as follows:

Sec. 5c. It shall be the duty of the presiding judge of the administrative judicial district to certify the state's share to be paid former district judges for services authorized prior to, on, or after the effective date of this Act pursuant to Sections 5a and 5b of this Article. The amount so certified shall be paid from an item in the Judiciary Section—Comptroller's Department—of the Appropriations Act providing for payment of salaries of district judges and criminal district judges.

Amendment No. 3 - Benedict

Amend **S.B. 428**, Page 1, Line 7, between the words "by" and "amending" by inserting the following:

"adding Section 5c,"

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to **S.B. 768.**

SENATE BILL 768 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 768** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Bird

Substitute the following for S.B. No. 768:

A BILL TO BE ENTITLED
AN ACT

relating to suits affecting the parent-child relationship and to taking possession of a child under certain circumstances.

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

SECTION 1. Section 11.01, Family Code, as amended, is amended by adding Subdivision (9) to read as follows:

(9) "Governmental entity" means the state, a political subdivision of the state, or an agency of the state.

SECTION 2. Subsection (a), Section 11.05, Family Code, as amended, is amended to read as follows:

(a) Except as provided in Subsections (b), (c), and (d) of this section and Section 17.05 of this code, when a court acquires jurisdiction of a suit affecting the parent-child relationship, that court retains continuing jurisdiction of all matters provided for under this subtitle in connection with the child, and no other court has jurisdiction of a suit affecting the parent-child relationship with regard to that child except on transfer as provided in Section 11.06 or 17.06 of this code.

SECTION 3. Section 11.10, Family Code, as amended, is amended by adding Subsections (d) and (e) to read as follows:

(d) In any suit brought by a governmental entity seeking termination of the parent-child relationship or to be named conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the child as soon as practicable to insure adequate representation of the child's interest.

(e) An attorney appointed to represent a child as authorized by this section is entitled to a reasonable fee in the amount set by the court which is to be paid by the parents of the child unless the parents are indigent.

SECTION 4. Chapter 17, Family Code, as amended, is amended to read as follows:

CHAPTER 17. EMERGENCY PROCEDURES IN SUIT BY GOVERNMENTAL ENTITY [~~SUIT FOR PROTECTION OF CHILD IN EMERGENCY~~]

Sec. 17.01. GOVERNMENTAL ENTITY MAY BRING SUIT. A suit affecting the parent-child relationship may be brought by a governmental entity with an interest in the child under Chapters 11, 13, 14, and 15 of this code. An emergency order or taking possession of a child without a court order as provided by Section 17.02 or 17.03 of this code is governed by this chapter.

[~~Sec. 17.01. TAKING POSSESSION IN EMERGENCY. An authorized representative of the State Department of Public Welfare, a law enforcement officer, or a juvenile probation officer may take possession of a child to protect him from an immediate danger to his health or physical safety and deliver him to any court having jurisdiction of suits under this subtitle, whether or not the court has continuing jurisdiction under Section 11.05 of this code. The child shall be delivered immediately to the court.~~]

Sec. 17.02. EMERGENCY ORDERS. (a) Before any temporary restraining order or attachment of the child is issued without a full adversary hearing in a suit affecting the parent-child relationship brought by a governmental entity, the court must be satisfied from a sworn petition or affidavit that:

(1) there is an immediate danger to the physical health or safety of the child; and

(2) there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(b) The petition or affidavit required by Subsection (a) of this section shall be sworn to by a person with personal knowledge and shall state facts sufficient to satisfy a person of ordinary prudence and caution that there is an immediate danger to the physical health or safety of the child and that there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(c) A temporary restraining order or attachment of the child issued under Subsection (a) of this section may not extend for more than 10 days.

[~~Sec. 17.02. HEARING. Unless the child is taken into possession pursuant to a temporary order entered by a court under Section 11.11 of this code, the officer or representative shall file a petition in the court immediately on delivery of the child to the court, and a hearing shall be held to provide for the temporary care or protection of the child.~~]

Sec. 17.03. TAKING POSSESSION OF A CHILD WITHOUT A COURT ORDER. (a) An authorized representative of the Texas Department of Human Resources, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions and no others:

(1) upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(2) upon the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(3) upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code; or

(4) upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code.

(b) When a child is taken into possession under Subsection (a)(3) or (4) of this section, the person taking the child into possession shall, without unnecessary delay, cause to be filed a suit affecting the parent-child relationship and request the court to cause hearing to be held by no later than the first working day after the child is taken into possession.

(c) The court in which the suit affecting the parent-child relationship has been filed under Subsection (b) of this section shall hold a hearing on or before the first working day after the child is taken into possession and shall make such orders as are necessary to protect the physical health and safety of the child. If the court is unavailable for a hearing on the first working day, then, and only in that event, the hearing shall be held no later than the first working day after the court becomes available, provided that the hearing is held no later than the third working day after the child is taken into possession. The hearing may be ex parte and proof may be by sworn petition or affidavit if a full adversary hearing is not practicable. If the hearing established by this subsection is not held within the time limits required, the child shall be returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child.

(d) Unless the court at the hearing required under Subsection (c) of this section is satisfied that there is a continuing danger to the physical health or safety of the child if the child is returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child, the court shall order the return of the child to the person entitled to possession.

(e) A full adversary hearing shall be held within 10 days of the taking of the child into possession under Subsection (a)(3) or (4) of this section and such orders made as are necessary for the protection of the physical health and safety of the child.

(f) When possession of the child has been acquired under Subsection (a)(2) of this section, the person taking the child into possession shall cause to be filed a suit affecting the parent-child relationship within 30 days from the date of the taking of the child into possession and a hearing to be held thereon.

(g) When a child is taken into possession under this section, that child shall not be held in a jail or juvenile detention facility.

[~~Sec. 17.03. NOTICE. The proceeding under Section 17.02 of this code may be held without notice.~~]

Sec. 17.04. ADVERSARY HEARING. (a) Unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and any temporary orders dissolved, a full adversary hearing shall be held within 10 days of:

(1) the taking of the child into possession by authority of Section 17.03(a)(3) or (4) of this code;

(2) the taking of the child into possession by authority of a temporary restraining order or attachment of a child issued under Section 17.02 of this code; or

(3) the filing of the suit provided under Section 17.03(f) of this code.

(b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a danger to the physical health or safety of the child which was caused by any act or failure to act of the person entitled to possession.

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a danger to the physical health or safety of the child, the court shall issue appropriate temporary orders under Section 11.11 of this code.

[~~Sec. 17.04. GROUNDS AND DISPOSITION. On a showing that the child is apparently without support and is dependent on society for protection, or that the child is in immediate danger of physical or emotional injury, the court may make any appropriate order for the care and protection of the child and may appoint a temporary managing conservator for the child.~~]

Sec. 17.05. JURISDICTION OF CHAPTER 17 PROCEEDINGS. (a) A suit affecting the parent-child relationship brought by a governmental entity seeking conservatorship or termination and a temporary restraining order or attachment of a child under this chapter may be filed in any court with jurisdiction to hear suits affecting the parent-child relationship in the county in which the child is found.

(b) Immediately after the issuance of such temporary orders as are necessary for the protection of the child pending a final hearing, a governmental entity shall determine the court of continuing jurisdiction and shall institute any transfers as are necessary under Section 17.06 or 11.06 of this code.

[~~Sec. 17.05. DURATION OF ORDER. (a) An order issued under Section 17.04 of this code expires at the end of the 10-day period following the date of the order, on the restoration of the child to the possession of its parent, guardian, or conservator, or on the issuance of ex parte temporary orders in a suit affecting the parent-child relationship under this subtitle, whichever occurs first.~~

[~~(b) If the child is not restored to the possession of its parent, guardian, or conservator, the court shall:~~

[~~(1) order such restoration of possession; or~~

[~~(2) direct the filing of a suit affecting the parent-child relationship in the appropriate court with regard to continuing jurisdiction.~~]

Sec. 17.06. TRANSFERS IN CHAPTER 17 PROCEEDINGS. (a) Immediately after entry of temporary orders necessary for the protection of the child pending a final hearing, the court on the motion of a party shall transfer to the court of continuing jurisdiction, if there is a court of continuing jurisdiction, or if there is no court of continuing jurisdiction, to the court having venue of the suit affecting the parent-child relationship under Section 11.04 of this code. Transfers shall be made under the procedures provided by Section 11.06 of this code.

(b) Temporary orders issued under this chapter are valid and enforceable until properly superceded by a court with jurisdiction to do so.

(c) Any court to which the suit has been transferred may enforce, by contempt or otherwise, any temporary order properly issued under this chapter.

[~~Sec. 17.06. MODIFICATION. On the motion of a parent, managing conservator, or guardian of the person of the child, and notice to those persons involved in the original emergency hearing, the court shall conduct a hearing and may modify any emergency order made under this chapter if found to be in the best interest of the child.~~]

Sec. 17.07. NOTICE OF HEARINGS. Notice shall be given in accordance with Section 11.09 of this code and the Texas Rules of Civil Procedure.

[~~Sec. 17.07. EFFECT OF APPEAL. An appeal from an emergency order made under this chapter does not stay the order.~~]

[~~Sec. 17.08. CONTINUING JURISDICTION NOT RETAINED. The court having jurisdiction of a child under this chapter does not retain continuing jurisdiction within the meaning of Section 11.05 of this code.~~]

Sec. 17.08 [~~17.09~~]. CIVIL LIABILITY. A person who takes possession of a child under Section 17.03 [~~17.01~~] of this code is immune from civil liability if, at the time possession is taken, he had reasonable cause to believe there was an immediate danger to the physical health or safety [~~or emotional well-being~~] of the child.

SECTION 5. This Act takes effect September 1, 1979.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

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

SENATE RULE 74a SUSPENDED

On motion of Senator Jones of Taylor and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to **S.B. 1255.**

SENATE BILL 1255 WITH HOUSE AMENDMENT

Senator Jones of Taylor called **S.B. 1255** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 - Washington

Amend **S.B. 1255** by striking all of subsection (7) of Section 1 and substituting in lieu thereof the following:

"(7) to obtain information from the Board of Pardons and Paroles and the Department of Corrections, if such records relate to an applicant for rehabilitation services or to a client of the agency, who has been, or is about to be, released by the Texas Department of Corrections; the Board of Pardons and Paroles, and The Texas Department of Corrections shall, upon request, supply

the commission with information applying to applicants for rehabilitation services or clients of the commission if the person has been, or is about to be, released by the Texas Department of Corrections; the commission shall treat all information as privileged and confidential and for commission use only."

The amendment was read.

Senator Jones of Taylor moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Mauzy, Truan.

Absent: Parker.

SENATE JOINT RESOLUTION 36 WITH HOUSE AMENDMENTS

Senator Farabee called **S.J.R. 36** from the President's table for consideration of the House amendments to the resolution.

The Presiding Officer laid the resolution and the House amendments before the Senate.

Amendment No. 1 - Grant

Amend **S.J.R. 36** in the following respects:

1. Amend Section 3 to read as follows:

"That Article V, Section 3, of the Texas Constitution be amended to read as follows:

"Sec. 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction [~~have appellate jurisdiction only except as herein specified, which~~] shall be co-extensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law [~~questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void~~]. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

"The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

"The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide."

2. Amend Section 4 to read as follows:

"That Article V, Section 5, of the Texas Constitution be amended to read as follows:

Sec. 5. The Court of Criminal Appeals shall have final appellate jurisdiction co-extensive with the limits of the State, and its determinations shall be final, in all criminal cases of whatever grade, with such exceptions and under such regulations as may be provided in this Constitution or as prescribed by law.

"The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeal as prescribed by law. In addition, the Court of Criminal Appeals may, on its own motion, review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

"Subject to such regulations as may be prescribed by law, [~~regarding criminal matters~~] the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ [~~writs~~] of habeas corpus, and, in riminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue [~~and~~] such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment."

3. Amend Section 7 by striking "January 1, 1980" and substituting "September 1, 1981."

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy.

Absent: Parker.

SENATE CONCURRENT RESOLUTION 105

Senator Snelson offered the following resolution:

S.C.R. 105, Authorizing Senate Enrolling Clerk to make certain changes in the Conference Committee Report on **S.B. 350.**

The resolution was read.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE CONCURRENT RESOLUTION 106

Senator Harris offered the following resolution:

S.C.R. 106, Authorizing the Conference Committee on **S.B. 797** to make certain changes in the Conference Committee Report.

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on Senate Bill 1129.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1129 ADOPTED

Senator Schwartz called from the President's table the Conference Committee Report on **S.B. 1129.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

RECORD OF VOTES

Senators Andujar and Meier asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

SENATE BILL 117 WITH HOUSE AMENDMENTS

Senator Mengden called **S.B. 117** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Temple

Amend **S.B. 117** by inserting after "and," on line 19 page 2 the following: "after notice to both parents, and,"

Amendment No. 2 - Polk

Amend **S.B. 117** as follows:

Section 1. Chapter 12, Family Code, as amended, is amended by adding Section 12.05, page 1, line #17, to read as follows:

"Section 12.05. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR PREMATURE BIRTH. (a) A living human child born alive after an abortion or premature birth is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive after the normal gestation period."

Amendment No. 3 - Temple

Amend **S.B. 117** by striking Section 17.011 and substituting the following:

"Section 17.011. LIVING CHILD AFTER ABORTION. An authorized representative of the Texas Department of Human Resources may assume the care, control, and custody of a child born alive as a result of an abortion as defined in Subsection (b) of Section 15.022 of this code and, if so, shall file a petition under Section 17.02 of this code and comply with all the provisions of Section 11.09 of this code. A child the possession of whom is assumed under this section need not be delivered to the court except on the order of the court."

The amendments were read.

Senator Mengden moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Blake, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Andujar, Doggett, Mauzy.

Absent: Ogg, Snelson.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1268 ADOPTED

Senator Truan called from the President's table the Conference Committee Report on **S.B. 1268.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Truan, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 952 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 952** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - McFarland

Amend **S.B. 952** by striking the word "and" on page 2, line 8 and inserting the word "or".

Amendment No. 2 - McFarland

Amend **S.B. 952** by deleting lines 6 through 9 on page 3 and substituting therefor the following:

"(c) An offense under this section is a Class C misdemeanor unless it is committed in a habitation, in which event it is a Class A misdemeanor, or unless it is committed on the premises of an electric generating plant or an electric utility substation, in which event it is a Class B misdemeanor."

The amendments were read.

Senator Farabee moved that the Senate concur in the House amendments.

Senator Clower made the substitute motion that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The substitute motion was lost by the following vote: Yeas 5, Nays 26.

Yeas: Clower, Doggett, Mauzy, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Williams.

Question recurring on the motion to concur in the House amendments, the Senate concurred in the House amendments.

SENATE BILL 666 WITH HOUSE AMENDMENT

Senator Schwartz called **S.B. 666** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Massey

Substitute the following for S.B. No. 666:

A BILL TO BE ENTITLED

AN ACT

amending Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as amended, relating to the Gulf Coast Waste Disposal Authority, by providing additional powers for said authority and authorizing any public agency, local government, political subdivision, or other entity to contract with said authority with respect to its powers; enacting other provisions relating to the subject; providing for the cumulative effect and severability of the act; and declaring an emergency.

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

Section 1. Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as amended by Chapter 202, Acts of the 62nd Legislature of the State of Texas, Regular Session, 1971; Chapters 258 and 466, Acts of the 63rd Legislature of the State of Texas, Regular Session, 1973; and Chapter 443, Acts of the 64th Legislature of the State of Texas, Regular Session, 1975 (the "Act"), is hereby amended by adding Subsection (f) to Section 2.05 of the Act to be and read as follows:

(f) This Subsection shall govern the appointment of directors by municipalities waste disposal councils created and described in Subsection (c) of this Section 2.05. When a director appointed by a municipalities waste disposal council vacates his office whether by expiration of his term or by death, resignation, or removal, the successor director shall be appointed in one of the following manners:

1. If the chairman of a municipalities waste disposal council designates a time and place for a meeting and notice of such meeting has been mailed to each member of the council at least seven days prior to the time fixed for the meeting, a majority of the members of the council present and at such meeting may appoint a director, whether or not a quorum is present; or

2. If the chairman of a municipalities waste disposal council mails a notice recommending the appointment of a specific person to each member of the council by certified or registered mail at least 30 days prior to the date on which such recommendation is to become effective, and if the chairman receives within such period of time written responses from at least two-thirds of the members of the council, which responses consent to and approve the proposed appointment, then the person so recommended shall be considered appointed pursuant to this Act on the expiration of such 30-day period. If a consent is once given by a member of the council, such consent cannot be withdrawn. Such consents shall be in writing, in form satisfactory to the chairman, and acknowledged before an officer of the state authorized to take oaths.

Section 2. Subsection 3.01(b) of the Act is hereby amended to be and read as follows:

(b) The authority shall conduct studies and research for the control of water pollution and waste disposal within the district and shall cooperate fully with the Texas Department of Water Resources, or its successor, in any studies of the department or its predecessor, and utilize the results of those studies. ~~It shall cooperate with the Galveston Bay Study of the quality board and utilize the results of that study.~~

Section 3. Subsection 3.08(a) of the Act is hereby amended to be and read as follows:

(a) After public hearing, the authority ~~shall~~ may prescribe standards and criteria for the waters in the district.

Section 4. Section 3.10 of the Act is hereby amended (and restructured and revised) to be and read as follows:

~~Section 3.10 (a) The authority shall prepare a master plan encompassing plans for the maximum abatement and prevention of water pollution, plans for the control of waste disposal, and plans and methods for the treatment and control of waste water that would otherwise cause pollution. The master plan shall show at least: (1) the nature and location of existing waste disposal systems in the district, and (2) the nature and location of proposed waste disposal systems which will be needed in the district within stated periods of time to maintain desired water quality. The master plan shall be a guide for development of such systems by the authority and by other persons.~~

~~(b) The master plan shall be filed with the quality board, for its review and approval. If the quality board shall not notify the authority in writing of its disapproval of the plan in any respect within 180 days of filing, its approval shall not be required. Any objections to the plan by the quality board shall be submitted in writing to the authority, and when the objections are met to the satisfaction of the quality board, it shall promptly evidence its approval in writing.~~

~~(c) The master plan so approved shall be available for inspection by the public at the authority's principal office.~~

~~(d) The master plan may be amended or supplemented by the authority, provided that a copy of such amendment or supplement to the master plan shall be filed and approved in accordance with Subsection (b) of this section.~~

~~(e) The first master plan, as amended or supplemented, shall be effective for a period of 10 years. Upon the expiration of each 10 year period, the authority shall revise its master plan and a copy of said revised plan shall be filed and approved in accordance with Subsection (b) of this section.~~

~~(f) Prior to the adoption of a master plan, or any amendment, supplement, or revision effecting any substantial change, the authority shall give notice to the public that it proposes to adopt such master plan, amendment, supplement, or revision, by causing a notice describing its general nature to be published once in a newspaper of general circulation in each county in the district. In addition to such publication, a copy of such notice shall be transmitted by mail to the county judge of each county within the district, to the mayor of each incorporated municipality within the district, and to the manager or presiding director of every water district within the district which has registered with the Texas Water Rights Commission under Chapter 62, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 8280-7, Vernon's Texas Civil Statutes), such notice to be mailed not less than 20 days before the regular meeting at which the master plan, amendment, supplement, or revision is to be considered for the first time. Failure in delivery of notice does not invalidate the action taken.~~

~~(g) Such master plan, amendment, supplement, or revision may be considered and approved at the regular meeting of the board next following the last date of publication or, without further notice, at any regular meeting thereafter. However, any amendment, supplement, or revision to a duly approved and filed master plan which is made effective by law or by original action of the quality board shall not be subject to the notice requirements of Subsection (f) of this section.~~

~~(h) The affirmative vote of at least a majority of all the directors is required for the approval of the master plan, amendment, supplement, or revision.~~

~~(i) After the master plan has been filed with and approved by the quality board, a copy of the plan of any waste disposal system or water pollution abatement proposal, or of any request for permit or authority submitted to the quality board, to be operative within the district, not now or hereafter exempted by law from the requirement for procuring a permit, shall be submitted in such form as the authority shall require to the authority at its principal office by the party making the proposal or request. In case the proposed plan or request is one by law requiring action by the quality board, the authority shall have the right to present its views and recommendations to the quality board, and receive notice of any hearings conducted by it in the matter. Should the proposed plan or request be one not requiring by law action by the quality board, then the authority shall hold a hearing at which the proponents of the proposed plan or request may present their evidence and recommendations.~~

~~(j) The authority shall approve such proposal requiring only its action, if it finds such proposal compatible with the authority's master plan; final approval or disapproval shall issue from the authority within 90 days after receipt of a copy of such proposal or request.~~

~~(k) If approved, such proposal or request shall be incorporated into the master plan.~~

Section 3.10. (a) The authority shall develop and prepare, as needed, and from time to time revise, comprehensive water quality management and waste disposal control plans for various areas of the district, provided, however, that the plans developed by the authority shall be consistent with the requirements and rules of the Texas Department of Water Resources or its successor.

(b) Insofar as may be practical, such plans shall be reasonably compatible with other governmental plans for the areas within the district.

Section 5. Subsection 3.21(b) of the Act is hereby amended to be and read as follows:

~~(b) Sales of property not authorized by any other provision of this Act are hereby authorized, subject to the following limitations: (1) The board, by affirmative vote of seven directors, shall determine that the property is not needed by the authority; (2) sales shall be by competitive bidding if the value of the property as appraised by the board exceeds $10,000, (3) notice of the proposed sale shall be published once each week for three consecutive weeks in a newspaper having general circulation in the county or counties in which the property is situated if the value of the property as appraised by the board exceeds $2,000, (4) the specific terms of the sale shall be approved by the board, an affirmative vote of seven directors being required for this purpose, unless the value of the property as appraised by the board is $2,000 or less, in which event the board by affirmative vote of seven directors may authorize the general manager to sell on such terms as he deems advisable.~~

"(b) The board may sell to the highest bidder at a public or private sale or may exchange any property or land owned by the authority which is not required to carry out the plans of the authority. Before either a public or a private sale of property or land not required for the authority's plans, the authority shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district."

Section 6. Subsection 3.23(b) of the Act is hereby amended to be and read as follows:

(b) Any construction or repair contract, or contract for the purchase of material, equipment, or supplies, or any contract for services (other than technical, scientific, legal, fiscal or other professional services) shall be awarded to the lowest and best bidder therefor, after publication of a notice to bidders once each week for three consecutive weeks before the date set for awarding the contract, if the contract will require an estimated expenditure of more than ~~$10,000~~ $25,000, or if the contract is for a term of more than ~~two~~ five years. In the event of an emergency, the authority may let such contracts as are necessary to protect and preserve the public health and welfare or the properties of the authority, without such bidding procedures. Provided, that as to construction contracts for industrial wastewater disposal and solid waste disposal projects, where such projects are not being constructed for or to serve a public agency or a local government, or where the project is a solid waste resource recovery facility to be used for disposal of waste of cities of 1,000,000 population or greater, whose ultimate output or product is to be sold to individuals or corporations for amounts substantially sufficient to finance such facility, there shall be no obligation to receive construction bids on such projects and Chapter 163, Acts of the 42nd Legislature, 1931, as amended (Article 2368a, Vernon's Texas Civil

Statutes), or any other law requiring competitive bids, shall not apply to such projects.

Section 7. The Act is hereby amended by adding a new Subsection (1) to Section 3.23, to follow Subsection (k) of said Section 3.23, and to be and read as follows:

(1) (i) Any provisions of this Act to the contrary notwithstanding and as an expansion of other definitions found in Section 1.03 the term "waste" as used in this Act shall mean and include solid waste, and the Authority and all persons are authorized to enter into contracts with respect to any waste and any waste disposal or treatment facilities and any other facilities described in this Subsection (1) or any other part of this Act, and the authority is authorized to execute all appropriate documents and instruments in connection therewith; and the authority is authorized to issue bonds with respect to any of its powers, including those powers granted in this Subsection (1), and also for the purpose of providing or funding any debt service reserve fund, or other special reserve, contingency, or other fund in connection with bonds, and/or also for the purpose of providing funds to operate any facilities for a period not to exceed three years after completion and to maintain any facilities, and/or to provide funds to pay interest on bonds during such period as is determined by the authority; and

(ii) The authority may exercise the powers, duties and authority defined in the Regional Waste Disposal Act (Chapter 30, Vernon's Texas Water Code), and all of the provisions of the Regional Waste Disposal Act, as it now exists, and as it hereafter may be amended, are applicable to the authority, except to the extent of any conflict with this Act, in which case this Act shall prevail over the provisions of the Regional Waste Disposal Act; and

(iii) All persons are authorized to contract with the authority in any manner authorized by this Act or the Regional Waste Disposal Act with respect to any facilities described in this Subsection (1) or any other part of this Act; provided that any public agency or local government additionally is authorized to enter into and execute any such contract with the authority and to determine, agree, and pledge that all or any part of its payments under such contract shall be payable from the source described in Section 30.030(c) of the Regional Waste Disposal Act, subject only to the authorization of such contract, pledge, and payments by a majority vote of the governing body of such public agency or local government. All public agencies and local governments also are authorized to use and pledge any other available revenues or resources whatsoever for and to the payment of amounts due under such contracts, as an additional source or sources of payment thereof, or as the sole source or sources of payment thereof, and may covenant with respect thereto so as to assure the availability thereof when required; and

(iv) All public agencies and local governments are authorized to fix; charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided pursuant to or in connection with any contract with the authority, from its inhabitants or from any users or beneficiaries of such services or facilities, including specifically water charges, sewage charges, solid waste disposal system fees and charges (including garbage collection or handling fees), and other fees and charges, and to use and pledge same to make payments to the authority required under the contract, and may covenant to do so in amounts sufficient to make all or any part of such payments to the authority when due; and

(v) This Subsection (1) shall be wholly sufficient authority within itself for the issuance of the bonds, subject to Subchapter 5 of this Act, the execution of the contracts, and the performance of the other acts and procedures authorized

herein, by the authority and all persons, including specifically public agencies, without reference to any other provisions of law or any restrictions or limitations contained therein, except as herein specifically provided; and in any case, to the extent of any conflict or inconsistency between any provisions of this Subsection and any other provision of law (including any home rule city charter provisions), this Subsection shall prevail and control; provided, however, that the authority and all persons, including specifically public agencies, shall have the right to use any other provisions of law, not in conflict with the provisions of this Subsection, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Subsection.

(vi) The authority is expressly made subject to the continuing supervision of the state by and through the Texas Department of Water Resources, or its successor and Chapter 50, Water Code, as amended.

Section 8. Section 3.25 of the Act is hereby repealed.

~~Section 3.25 (a) The authority is hereby authorized to work in cooperation with and lend assistance to, any permanent standing committee or interim study committee authorized by the Legislature of the State of Texas, or the Coastal and Marine Affairs Council, and to expend any money specifically appropriated by the legislature to the authority, or money appropriated specifically to the Texas Water Quality Board or any other state agency for a contractual arrangement between such state agency and the authority, for the first phase of a subsidence control program for Harris and Galveston Counties. Such program is intended to develop regional information relating to water demand, present and future, surface water supply sources, present and future, and ground water pumping zones, and to prepare methods to redistribute water in the future. The authority is specifically authorized to cooperate with and contract with the United States Geological Survey and any other federal or state agencies concerning the results of such program. It is specifically provided that the authority shall not be required to expend any of its funds for the purpose specified in this section unless such funds are specifically appropriated by the legislature or specifically designated for such purpose from contractual arrangements.~~

Section 10. Nothing in this Act is intended to violate any provision of the Constitution of the United States of America or the Constitution of the State of Texas, and all acts done hereunder shall be done in such manner as may conform thereto. If any one or more word, phrase, paragraph, subparagraph, sentence, clause, part, portion, or provision of this Act, or the application thereof to any person, situation, or circumstance, is held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, paragraph, subparagraph, sentence, clause, part, portion, or provision. All of the terms and provisions of this Act are to be liberally construed to effectuate the purposes, powers, rights, functions, and authorities herein set forth.

Section 11. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Article 16, Section 59(d) of the Texas Constitution, has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements.

Section 12. The fact that the additional powers granted by this Act are urgently required in order to provide needed public improvements, the importance of this legislation and the crowded condition of the calendars in both houses create an emergency and imperative public necessity that the constitutional

rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act shall take effect and be in full force from and after its passage, and it is so enacted.

The amendment was read.

Senator Schwartz moved to concur in the House amendment.

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

(President in Chair)

CONFERENCE COMMITTEE ON SENATE BILL 124 DISCHARGED

On motion of Senator Doggett, the Conference Committee on S.B. 124 was discharged.

RECORD OF VOTE

Senator Moore asked to be recorded as voting "Nay" on the motion to discharge the Conference Committee.

Question - Shall the Senate concur in the House amendments to **S.B. 124**?

Senator Doggett moved that the Senate do not concur in the House amendments, but that a new Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the new Conference Committee on **S.B. 124** before appointment.

There were no motions offered.

The President announced the appointment of the following new conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Braecklein, Kothmann, Mauzy and Truan.

HOUSE JOINT RESOLUTION 86 ON SECOND READING

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

H.J.R. 86, A joint resolution proposing a constitutional amendment relating to the budget execution powers of the governor and the power to veto or reduce items of appropriation.

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

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the passage of the resolution to third reading.

HOUSE JOINT RESOLUTION 86 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 86** by placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Brooks.

The resolution was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

GOVERNOR PRESENTED

The President recognized the presence of The Honorable William P. Clements, Jr., in the Senate Chamber and invited him to the Rostrum.

The Governor made brief remarks to the Senate.

SENATE BILL 254 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 254** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Wilson

Amend **S.B. 254** by deleting line 26 on page 3, by deleting lines 1 and 2 on page 4 and by placing a period after the word "misdemeanor" on line 25, page 3.

Committee Amendment No. 2 - Wilson

Amend **S.B. 254**, page 3, by striking the semi-colon and the word "or" on line 17 and deleting all of lines 18, 19 and 20 and placing a period after the word "goats" on line 17.

The amendments were read.

Senator Jones of Harris moved that the Senate concur in the House amendments.

The motion prevailed.

CONFERENCE COMMITTEE REPORT HOUSE BILL 480

Senator Schwartz submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 480** have met and 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.

SCHWARTZ
VALE
WILLIAMS
OGG
SNELSON
On the part of the Senate

SMITH
SIMPSON
FOX
BLYTHE
CARAWAY
On the part of the House

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Meier and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 125.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 125 ADOPTED

Senator Meier called from the President's table the Conference Committee Report on **S.B. 125.** (The Conference Committee Report having been filed with the Senate and read on Sunday, May 27, 1979.)

On motion of Senator Meier, the Conference Committee Report was adopted.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the motion to adopt the Conference Committee Report.

CONFERENCE COMMITTEE ON HOUSE CONCURENT RESOLUTION 74

Senator Mengden called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.C.R. 74** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.C.R. 74** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the resolution: Senators Mengden, Chairman; Howard, Williams, Jones of Harris and Traeger.

CONFERENCE COMMITTEE ON HOUSE BILL 2142

Senator Doggett called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2142** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2142** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Mauzy, Truan, Patman and Clower.

CONFERENCE COMMITTEE ON HOUSE BILL 2146

Senator Doggett called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2146** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2146** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Mauzy, Truan, Patman and Clower.

CONFERENCE COMMITTEE ON SENATE BILL 910 DISCHARGED

Senator McKnight raised the Point of Order that the Conference Committee on **S.B. 910** was not properly appointed, in violation of Senate Rule 95, and moved the Conference Committee be discharged.

The President sustained the Point of Order.

Accordingly, the President discharged the Conferees.

Senator McKnight moved the Senate concur in the House amendments.

On motion of Senator McKnight and by unanimous consent, the motion to concur was withdrawn.

HOUSE BILL 225 ON SECOND READING

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

H.B. 225, Relating to regulation of motor vehicle manufacturers and distributors and their dealers and representatives.

The bill was read second time.

Senator Moore offered the following amendment to the bill:

Amend House Bill 225 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1.03, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Subdivision (10) to read as follows:

(10) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

(A) a dealer or a bona fide agent or employee of a dealer;

(B) a representative or a bona fide agent or employee or a representative;

(C) a distributor or bona fide agent or employee of a distributor; or

(D) at any point in the transaction the bona fide owner of the vehicle involved in the transaction.

SECTION 2. Section 2.01a, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.01a. APPLICATION OF SUNSET ACT. The Texas Motor Vehicle Commission is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1991 [~~1979~~].

"SECTION 3. Section 2.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.02. MEMBERS OF COMMISSION. The Commission shall consist of nine [~~six~~] persons appointed by the Governor with the advice and consent of the Senate.

"SECTION 4. Section 2.03, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 2.03. QUALIFICATIONS OF MEMBERS. (a) Each member of the Commission shall be a citizen of the United States and a resident of this State. Five [~~Four~~] members shall be dealers, no two of which are franchised to sell the motor vehicles manufactured or distributed by the same person or a subsidiary or affiliate of the same person. Four [~~Two~~] members shall be persons from the public who are not [~~required to be~~] licensed hereunder and who do not have, except as consumers, interests in any business that manufactures, distributes, or sells new motor vehicles [~~from the public at large~~].

"(b) The persons initially appointed to the Commission as dealer-members shall be persons whose principal occupation has been franchised new motor vehicle dealers in this State for at least ten years. The dealer-members appointed to the Commission after the initial appointments are made shall be licensed dealers under this Act.

"(c) The [~~If any dealer-member of the Commission ceases to be a licensed dealer under this Act, the~~] office of a [~~such~~] member is automatically vacated and [~~, which~~] shall be filled as any other vacancy, if:

"(1) the person is a dealer-member of the Commission and ceases to be a licensed dealer under this Act;

"(2) the person is a public member of the Commission and acquires an interest in a business that manufactures, sells, or distributes new motor vehicles;

"(3) the member becomes an officer, employee, or paid consultant of a trade association in the new motor vehicle industry; or

"(4) a person related to the member within the second degree of consanguinity or affinity becomes an officer, employee, or paid consultant of a trade association in the new motor vehicle industry."

"SECTION 5. Section 2.04, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 2.04. TERMS OF MEMBERS. (a) Except as provided by Subsections (b) and (c) of this section, the [~~The~~] members of the Commission shall hold office for terms of six years, [~~except the initial members,~~] with the terms of three [~~two~~] members expiring on January 31 [~~September 1~~] of each odd-numbered year. [~~The members of the first Commission shall be appointed within ninety days after this Act becomes effective, with the Governor designating two to serve for terms expiring September 1, 1973, two for terms expiring September 1, 1975, and two for terms expiring September 1, 1977.~~] The Governor shall make the appointments in such a way that there are always four [~~two~~] members on the Commission from the public at large. No person shall serve two consecutive full six-year terms as a member of the Commission.

"(b) The Governor shall appoint the three additional members to the Commission before the 91st day after September 1, 1979, and shall designate one to serve a term expiring January 31, 1981, one for a term expiring January 31, 1983, and one for a term expiring January 31, 1985.

"(c) A person holding office as a member of the Commission on September 1, 1979, continues to hold the office for which the member was originally appointed. The term of office succeeding a Commission member's term that expires on September 1, 1979, expires on January 31, 1985. The term of office succeeding a Commission member's term that expires on September 1,

1981, expires on January 31, 1987. The term of office succeeding a Commission member's term that expires on September 1, 1983, expires on January 31, 1989.

"(d) A term of office shortened under Subsection (c) of this section or the term expiring January 31, 1985, under Subsection (b) of this section is considered a full six-year term for the purpose of the prohibition against serving two consecutive full six-year terms as a member of the Commission."

SECTION 6. Section 2.08, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.08. COMMISSION MEETINGS. (a) The Commission shall hold a regular annual meeting in September of each year and elect a chairman and vice-chairman to serve for the ensuing year. The Commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any two members. Reasonable notice of all meetings shall be given as Commission rules prescribe. A majority of the Commission, including at least two [~~one~~] of the public members, shall constitute a quorum to transact business.

(b) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 7. Section 2.09, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.09. EXECUTIVE DIRECTOR; STAFF. (a) The Commission shall employ an executive director who shall be the chief administrative officer of the Commission, who shall maintain all minutes of Commission proceedings, and who shall be custodian of the files and records of the Commission. The executive director shall employ the staff authorized by the Commission. The Commission may by interagency contract utilize assistance of any State agency.

(b) An employee of the Commission is subject to dismissal who has an interest, except as a consumer, or is related within the second degree by consanguinity or affinity to a person who has an interest, except as a consumer, in a business that manufactures, distributes, or sells new motor vehicles.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to or serve as a member of the Commission.

SECTION 8. Section 2.10, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.10. REVENUES [~~SPECIAL FUND~~]. (a) The Commission shall send [~~deposit~~] all moneys received by it from license fees paid under this Act to [~~with~~] the State Treasurer, who shall deposit [~~keep~~] them in the General Revenue Fund in the State Treasury [~~a separate fund to be known as the "Motor Vehicle Commission Fund." The Commission may use this fund for salaries, wages, per diem, professional and consulting fees, grants, loans, contracts, travel expenses, equipment, office rent and expense and other necessary expense incurred in carrying out its duties under the Act as provided by legislative appropriation. At the close of each biennium the unexpended balance remaining in the Motor Vehicle Commission Fund shall be transferred to the general revenue fund~~].

(b) Before September 1 of each year, the Commission shall file a written report with the legislature and the Governor in which the Commission accounts for all funds received and disbursed by the Commission during the preceding year.

(c) The State Auditor shall audit the financial transactions of the Commission during each fiscal year.

SECTION 9. Section 3.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.02. RULES. The Commission, after hearing, shall make, amend, and enforce rules reasonably required to effectuate the provisions of this Act and govern procedure and practice before the Commission. The Commission shall comply with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) [~~Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes)~~]. If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Commission a statement opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the Commission receives the committees' statement.

SECTION 10. Section 3.04(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Commission shall hear all contested cases, as defined in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), arising under this Act. The Commission may hold hearings, administer oaths, receive evidence, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions in administering the Act and the rules, orders, and other actions of the Commission.

SECTION 11. Section 3.04(g), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(g) All persons whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses and to produce evidence and witnesses in their own behalf. If a hearing is not held before the whole Commission, such person shall have the right to appear before the Commission and present oral argument [~~evidence~~] when the matter comes before them for decision.

SECTION 12. Section 3.04(h), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(h) A retail buyer of a new motor vehicle may make a complaint concerning defects in a new motor vehicle which are covered by the warranty agreement applicable to the vehicle. Such complaint must be made by [~~certified~~] letter to the dealer, a copy of which shall be sent to the applicable manufacturer or distributor, and must specify the defects in the vehicle which are covered by the warranty. The [~~After the dealer has had thirty days in which to correct defects covered by the warranty, the~~] owner may make further complaint by sending to the Commission a copy of the letter [~~an additional certified letter to the dealer with copies to the applicable manufacturer or distributor and the Commission~~]. The Commission may hold a hearing on all unsatisfied complaints to determine whether there has been a violation of the Act.

SECTION 13. Section 3.04, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Subsections (i) and (j) to read as follows:

"(i) After the Commission schedules a hearing on a complaint made by a retail buyer under this section or by a licensed dealer under Section 4.06(c) of this Act, the Commission may cancel or adjourn the hearing if it determines, by an order entered on the records of the Commission, that the complaint was made for purposes of harassment of the dealer, the applicant, or the Commission.

"(j) No dealer member of the Commission may participate in, deliberate on, hear or consider, or decide any matter involving denial under Section 4.06(c) of this Act of an application to establish a dealership to sell the same motor vehicles manufactured or distributed by the same person or a subsidiary or affiliate of the same person for which the dealer member is franchised."

SECTION 14. Section 3.05, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.05. ENFORCEMENT; CONTRACTS; INSTRUMENTS. The Commission shall conduct investigations and, if appropriate, shall [~~may~~] cause legal proceedings to be instituted to enforce this Act and its rules, orders, and decisions, whenever the Commission has reason to believe, through receipt of a complaint or otherwise, that a violation of this Act or a Commission rule, order, or decision has occurred or is likely to occur. Should it appear from any investigation of a possible violation of any other law or regulation that a violation of this Act may have occurred, the matter shall be referred to the Commission to determine whether proceedings under this Act are also appropriate. The Commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

SECTION 15. Subchapter C, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Section 3.06 to read as follows:

Sec. 3.06. COMPLAINT STATUS. The Commission shall keep an information file about each complaint filed with the Commission. If a written complaint is filed with the Commission relating to a licensee under this Act, the executive director of the Commission, at least as frequently as quarterly, shall notify the persons involved of the status of the complaint until it has been resolved.

SECTION 16. Section 4.01, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01. LICENSE REQUIRED. No person shall engage in business as, serve in the capacity of, or act as a dealer, manufacturer, distributor, or representative in this State without obtaining a license therefor as provided in this Act [~~on or after December 1, 1971~~]. All licenses [~~shall be issued between August 31 and December 1 of each year as prescribed by the Commission and~~] shall expire one year from date of issue.

SECTION 17. Section 4.01A, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01A. EXPIRATION DATES OF LICENSES; PRORATION OF FEES. The commission by rule shall [~~may~~] adopt a system under which licenses expire, beginning in 1981, on various dates during the year. For 1981 only [~~the year in which the expiration date is changed~~], license fees payable on the date of issuance shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license fee is payable.

SECTION 18. Section 4.05(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The annual license fees for licenses issued hereunder shall be as follows:

(1) For each manufacturer and distributor, $300.00 [-$200.00].

(2) For each dealer who sold more than 200 new motor vehicles during the preceding calendar year, $100.00 [~~$50.00~~].

(3) For each dealer who sold 200 or less new motor vehicles during the preceding calendar year, $50.00 [~~$25.00~~].

(4) For each representative, $25.00.

SECTION 19. Subchapter D, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Section 4.01B to read as follows:

Sec. 4.01B. NOTICE OF LICENSE EXPIRATION. The Commission shall notify each person licensed under this Act of the date of license expiration and the amount of the fee required for license renewal. The notice shall be mailed at least thirty days before the date of license expiration.

SECTION 20. Section 4.06(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Commission may deny an application for a license or revoke or suspend an outstanding license, for any of the following reasons:

(1) Proof of unfitness of applicant or licensee under standards set out in this Act or in Commission rules.

(2) Material misrepresentation in any application or other information filed under this Act or Commission rules.

(3) Willful failure to comply with this Act or any rule promulgated by the Commission hereunder.

(4) Failure to maintain the qualifications for a license.

(5) Willfully defrauding any retail buyer to the buyer's damage.

(6) Willful violation of any law relating to the sale, distribution, financing, or insuring of new motor vehicles.

(7) Any act or omission by an officer, director, partner, trustee, or other person acting in a representative capacity for a licensee which act or omission would be cause for denying, revoking, or suspending a license to an individual licensee.

(8) Repeated failure to fulfill written agreements between the licensee and retail buyers of new motor vehicles.

SECTION 21. Section 4.06(c), Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The Commission may deny a dealer application to establish a dealership if the same line-make of new motor vehicle is then represented in the county in which the proposed dealership site is located, or in an area within 25 miles of the proposed dealership site, by a dealer who is in compliance with his franchise agreement with the manufacturer or distributor, is adequately representing the manufacturer or distributor in the sale and service of its new motor vehicles, and [~~no~~] good cause is shown why [~~for~~] an additional dealer license is not in the public interest, provided that the Commission shall consider the desirability of a competitive marketplace in all determinations made pursuant to this subsection.

SECTION 22. Subchapter D, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Section 4.07 to read as follows:

Sec. 4.07. REQUIRED NOTICE TO BUYERS. (a) A dealer licensed under this Act shall provide notice of the complaint procedures provided by Section 3.04(h) of this Act to each person to whom the dealer sells a new motor vehicle.

(b) The Commission may require its approval of the contents of notices required by Subsection (a) of this section or may prescribe the contents of required notices.

(c) Failure to give the notice required by Subsection (a) of this section is a ground for suspension or revocation of a dealer's license.

SECTION 23. Section 5.01, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.01. DEALERS. It shall be unlawful for any dealer to:

(1) Require a retail purchaser of a new motor vehicle as a condition of sale and delivery thereof to purchase special features, equipment, parts, or accessories

not ordered or desired by the purchaser, provided such features, equipment, parts, or accessories are not already installed on the new motor vehicle when received by the dealer.

(2) Use false, deceptive, or misleading advertising, in connection with any of the business of a dealer, as defined in Section 17.12 of the Business and Commerce Code, as amended.

(3) Fail to perform [~~after complaint and hearing~~] the obligations placed on the selling dealer in connection with the delivery and preparation of a new motor vehicle for retail sale as provided in the manufacturer's preparation and delivery agreements on file with the Commission and applicable to such vehicle.

(4) Fail [~~after complaint and hearing~~] to perform the obligations placed on the dealer in connection with the manufacturer's warranty agreements on file with the Commission.

(5) Operate as a dealer without a currently valid license from the Commission or otherwise violate this Act or rules promulgated by the Commission hereunder.

SECTION 24. Subchapter E, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Section 5.03 to read as follows:

Sec. 5.03. BROKERS. A person may not act as, offer to act as, or hold himself or herself out to be, a broker.

"SECTION 25. Subchapter F, Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Section 6.06 to read as follows:

"Section 6.06. APPLICATION OF OTHER LAW. (a) In addition to the other remedies provided by this subchapter, a person who has sustained actual damages as a result of a violation of Section 5.01 or Subdivision (1), (2), (4), (7), (8), or (10), Section 5.02 of Subchapter E of this Code may maintain an action pursuant to the terms of Subchapter E, Chapter 17, Business and Commerce Code.

(b) In any action brought against a licensee under Subsection (a) of this section, or for any other type of conduct which is actionable pursuant to the provisions of Subchapter E, Chapter 17, Business and Commerce Code, the $1000 limitation set forth in Section 17.50(b)(1) of Subchapter E, Chapter 17, Business and Commerce Code shall be adjusted to reflect any change in the consumer price index after the effective date of this Section. The $1000 limitation shall be increased or decreased, as applicable, by a sum equal to the amount of the $1000 limitation multiplied by the percentage of increase or decrease in the consumer price index between the effective date of this Section and the time at which the damages are awarded by final judgment or settlement. The term "consumer price index" means the National Consumer Price Index For All Urban Consumers, or a substantially similar successor, and the Court may take judicial notice of said index.

SECTION 26. This Act takes effect September 1, 1979.

SECTION 27. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 225 ON THIRD READING

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 225** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

GUESTS PRESENTED

The President recognized Senator Schwartz who presented his son, Dick Schwartz to the Members. Senator Schwartz announced Dick had taken his oath as a member of the Bar today.

The President introduced his aide, Karen Bailey, also a new member of the Bar.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones of Taylor and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider **H.B. 2018** and **H.B. 2019** today.

CONFERENCE COMMITTEE REPORT SENATE BILL 287

Senator Meier submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 287** have met and 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.

MEIER
FARABEE
LONGORIA
SANTIESTEBAN
BRAECKLEIN
On the part of the Senate

NABERS
LALOR
EVANS
CHAVEZ
DONALDSON
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of attorneys; revising the State Bar Act, as amended (Article 320a-1, Vernon's Texas Civil Statutes), relating to the organization, property, administration, governing body, officials, membership, and committees of the State Bar of Texas; providing for the responsibilities and powers of the Governor, Supreme Court of Texas, and the State Bar in implementing and carrying out the purposes of this Act; defining the practice of law; providing for disciplinary and disbarment procedures and for appeals; authorizing the assessment and prescribing the use of dues and fees for members; providing the extent of application of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes); containing carry-over clauses and setting out the expiration date of the Texas Sunset Act as applicable to the State Bar.

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

SECTION 1. The State Bar Act, as amended (Article 320a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SHORT TITLE. This Act may be cited as the State Bar Act.

Sec. 2. GENERAL POWERS. The State Bar of Texas established under the laws of this state is continued as a public corporation and an administrative agency of the judicial department of government. It is designated as the State Bar. This legislation is in aid of the Judicial Department's powers under the constitution to regulate the practice of law and not to the exclusion of those powers. The Supreme Court of Texas, on behalf of the Judicial Department, shall exercise administrative control over the State Bar under this Act.

Sec. 3. PURPOSES. The purposes of the State Bar shall be to aid the courts in carrying on and improving the administration of justice; to advance the quality of legal services to the public; to foster and maintain on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service and high standards of conduct; to provide proper professional services to the members of the Bar; to encourage the formation and activities of the local bar associations; to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the Bar to the public and to publish information relating

thereto; to the end that the public responsibilities of the legal profession may be more effectively discharged.

Sec. 4. SEAL; SUITS AND CONTRACTS; GIFTS. The State Bar has an official seal which shall not be used for private purposes.

The State Bar may sue and be sued in its own name. For the purposes of carrying into effect and promoting objectives of this Act, the State Bar may enter into contracts and do all other acts incidental to the foregoing that are necessary or expedient for the administration of its affairs and the attainment of its purposes.

The State Bar may acquire by gift, bequest, devise or otherwise any real or personal property or any interest in that property. The State Bar may acquire, hold, lease, encumber and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act.

Sec. 5. PROPERTY. All property of the State Bar is declared to be held by the State Bar for the purposes expressed in Section 3 of this Act.

Sec. 6. INDEBTEDNESS, LIABILITY, OR OBLIGATION. No indebtedness, liability, or obligation of the State Bar shall:

(1) create a debt or other liability of the State nor of any entity other than the State Bar or any successor public corporation;

(2) create any personal liability on the part of the members of the State Bar or the members of the board of directors or any authorized person issuing, executing, or delivering any evidence of the indebtedness, liability, or obligation;

(3) be created that cannot be paid from the receipts for the current year, except with the approval obtained by referendum of all members of the State Bar as provided in Section 8 of this Act.

Sec. 7. FISCAL POWERS. (a) The executive director of the State Bar shall confer with the clerk of the Supreme Court and shall supervise the administrative staff of the State Bar in preparation of the annual budget.

The proposed budget shall be presented annually at a public hearing. Any member of the public may participate in the discussion of any item proposed to be included in the budget. The executive director of the State Bar shall preside at the hearing, or if unable to do so, the executive director may authorize any employee of the administrative staff or any officer or director of the State Bar to represent him or her.

No less than 30 days prior to the time the hearing is held, the proposed budget as well as the time and place of the budget hearing shall be disseminated to the membership of the State Bar and to the public.

After the public hearing, the proposed budget shall be submitted to the board of directors for their consideration. The budget which is adopted by the board of directors shall be submitted to the Supreme Court for final review and approval. By action of the board of directors at a regular or special meeting, the budget may be amended subject to approval by the Supreme Court.

(b) The state auditor shall audit the financial transactions of the State Bar during each fiscal year with the expense of the audit to be borne by the State Bar. The auditors' report shall be published in the Bar Journal.

Sec. 8. RULEMAKING POWERS. (a) From time to time, either as the Supreme Court considers necessary or pursuant to a resolution of the board of directors of the State Bar, or pursuant to a petition signed by at least 10 percent of the registered members of the State Bar, the Supreme Court may prepare and propose and adopt rules and regulations or amendments to the rules or regulations for the operation, maintenance, and conduct of the State Bar and the discipline of its members.

(b) When the Supreme Court has prepared and proposed the rules, regulations or amendments to the rules or regulations, as set out above in

Subsection (a), it shall submit by mail a copy of each rule and regulation in ballot form to each registered member of the State Bar for a vote. At the end of 30 days from the time the ballots are mailed, the Court shall count the ballots that have been returned, provided that no election shall be valid unless a minimum of 51 percent of the members registered shall have voted at the election at which the rules, regulations, or amendments are adopted; and each of the rules and regulations that has received a majority of the votes cast shall be by the court declared and adopted and shall be promulgated by the court and shall become immediately effective. The vote shall be open to inspection by any member of the bar or public. No rule or regulation shall be promulgated that has not received a majority of votes cast in the manner provided above.

Sec. 9. ADMINISTRATIVE PROVISIONS. (a) The governing body of the State Bar shall be its board of directors on whom shall rest the duty of enforcing the provisions of this Act. Board of Directors' meetings shall be conducted in compliance with the Open Meetings Law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

The board shall be composed of the officers of the State Bar, the president, president-elect, and immediate past president of the Texas Young Lawyers Association, not more than 30 members of the State Bar, elected by the membership from their district as may be determined by the board, and six persons, who shall serve as advisory non-voting director members of the Board, who are not licensed attorneys, who do not have, other than as consumers, a financial interest in the practice of law. Three of these six non-lawyer advisory director members shall be appointed by the Supreme Court of Texas and confirmed by the Senate and the other three of the six non-lawyer advisory director members shall be appointed by the Governor of Texas and confirmed by the Senate. Non-attorney director members shall serve for concurrent terms of the same duration as elected members of the State Bar Board of Directors. An individual who has served more than half of a full term is not eligible again to be appointed to the Board as a non-attorney director member. In making the initial appoints the Supreme Court of Texas shall appoint three non-lawyer advisory director members and the Governor of Texas shall appoint three non-lawyer advisory director members. One of the persons so appointed by the Supreme Court and one appointed by the Governor shall hold office for a term expiring in June 1980. One of the persons shall hold office for a term expiring in June 1981 and one of the persons shall hold office for a term expiring in June 1982. Beginning with June 1980, and annually thereafter the Supreme Court and the Governor each shall appoint one non-lawyer advisory director member for a term of the same duration as those of the elected members of the Board. In making their appointments of non-lawyer advisory director members to the Board, the Supreme Court of Texas and the Governor of Texas shall endeavor to assure full and fair representation of the general public, including women, ethnic minorities and retired persons. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

The officers of the State Bar shall consist of the president, president-elect, and immediate past president. The officers shall be elected in accordance with rules and regulations governing the election of State Bar officers and directors which the Supreme Court shall prepare and propose in accordance with Section 8(b) of this Act; provided, however, the election rules shall include a provision that permits any member's name to be printed on the ballot as a candidate for president-elect whenever a written petition, signed by at least one percent of the membership of the State Bar requesting the action, is filed with the executive director at least 30 days before the election ballots are to be mailed to the membership.

For purposes of electing directors or for the fulfillment of any other duty imposed on the State Bar by this Act or the State Bar Rules, the board shall from time to time reapportion the state into bar districts as conditions require, taking into account the purposes of the State Bar as defined in Section 3 of this Act. The reapportionment shall be subject to the Supreme Court's approval.

If any director should, as determined by the board of directors, become incapacitated from performing his duties as director, or if any director should be absent from any two consecutive regular meetings of the board of directors or from a total of four meetings, without cause deemed adequate by the board of directors, he may be removed by the board of directors at any regular meeting by resolution declaring his position vacant.

No board member or employee of the board shall be an employee or paid consultant of a trade association in the field of board interest.

(b) The executive director of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The executive director may be elected as many times as the board of directors may choose. The executive director shall be responsible for the execution of the policies and directives of the board with reference to all activities of the State Bar, except the activities as may be made the responsibility of the general counsel by this Act or by the board. The executive director shall perform all duties usually required of a corporate secretary, including other duties as may be assigned to him or her by the board of directors. The executive director shall also act as the treasurer of the State Bar and shall receive from the clerk of the Supreme Court funds of the State Bar as provided by this Act. In this regard, the executive director shall be audited annually as provided in Section 7(b) of this Act. The executive director shall maintain the membership files and supervise the administrative staff of the State Bar in preparing the annual budget. He or she shall be required to execute a corporate surety bond in such amount as the board may direct, conditioned on faithful performance of his or her duties, the premium for which shall be paid by the State Bar. The executive director shall have no vote on matters presented to the board of directors.

(c) The general counsel of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The general counsel may be reelected as many times as the board may choose. He or she shall be a member of the State Bar.

The duties of the general counsel shall include all of those duties usually expected of and performed by a general counsel. It shall be the duty of the general counsel to standardize throughout all grievance districts the procedure, method, and practice for the processing of grievance complaints. It shall also be the duty of the general counsel to receive and maintain, on behalf of the State Bar the files and records of the grievance committees that pertain to discipline. The general counsel shall expedite and coordinate the State Bar's grievance duties which are made mandatory by this Act. The general counsel, on request of any grievance committee, may investigate and prosecute grievance actions as provided in Section 12 of this Act. The general counsel, on request of any unauthorized practice of law committee or by a grievance committee may investigate and prosecute suits to enjoin members, nonlicensees, and nonmembers of the State Bar from the practice of law. The general counsel's duties shall also include those matters delegated from time to time by the board of directors of the State Bar.

The general counsel may not be a lobbyist registered with the Secretary of State.

(d) The executive director and the general counsel of the State Bar shall be subject to the Texas conflict of interest law, Chapter 421, Acts of the 63rd

Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

(e) The executive director of the State Bar shall confer with the clerk of the Supreme Court as to the maintenance of correct membership files and in preparing the annual budget for review as provided in Section 7(a) of this Act. All membership fees shall be collected by the clerk of the Supreme Court and held by him or her until distributed to the State Bar for expenditure under the direction of the Supreme Court for the purpose of administering this Act.

The clerk of the Supreme Court, with the permission of the court, may employ a deputy to assist in discharging the duties imposed on him or her by this Act and any rules promulgated to administer this Act. The salary of the deputy shall be fixed by the board of directors and paid from the funds of the State Bar.

(f) All records of the State Bar, except for records pertaining to grievances and records pertaining to the Texas Board of Legal Specialization, shall be subject to the Texas Open Records Act, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes);

Sec. 10. MEMBERSHIP; FEES. (a) All persons who are enrolled as members of the State Bar on the effective date of this Act and any person who, after the effective date of this Act, shall be licensed to practice law in this State shall constitute and be members of the State Bar, and shall be subject to the provisions of this Act and the rules adopted by the Supreme Court of Texas. All persons not members of the State Bar are prohibited from practicing law in this state except that the Supreme Court may promulgate rules and regulations prescribing the procedure for limited practice of law by attorneys licensed in another jurisdiction, bona fide law students, or nonlicensed graduate students who are attending or have attended a law school approved by the Supreme Court.

(b) Every person who after the effective date of this Act becomes licensed to practice law in this state shall enroll in the State Bar by registering his or her name with the clerk of the Supreme Court within 10 days of his or her admission to practice. Membership of the State Bar shall consist of four classes: active, inactive, emeritus, and associate.

Every licensed member of the State Bar is an active member until he or she requests to be enrolled as an inactive member.

The class of "inactive members" shall include those persons who are eligible for active membership but are not engaged in the practice of law in this state and have filed with the executive director and the clerk of the Supreme Court written notice requesting enrollment in the class of inactive members.

Inactive members are not entitled to hold office, or vote in any election conducted by the State Bar or practice law. Those who are enrolled as inactive members at their request may on application and payment of fees required become active members.

The class of "emeritus members" shall include those persons who are either active or inactive members in good standing but who are at least 70 years of age and have filed a written notice requesting enrollment in the class of emeritus members. An emeritus member shall enjoy all the privileges of membership in the State Bar and shall not be required to pay membership dues for the years following the year in which he or she attains the age of 70.

The class of "associate members" may include those persons who are enrolled in law school in this state. Enrollment as an associate member shall be voluntary on the part of the enrollee. Associate members are not entitled to hold office, or vote in any election conducted by the State Bar or practice law, except as provided by rule promulgated by the Supreme Court. Dues for associate members shall be set by the board of directors.

(c) The Supreme Court is empowered and it shall be its duty to prescribe fees for members of the State Bar to be paid to the clerk of the Court until distributed to the executive director as provided in Section 9(e) of this Act and expended by the board of directors under the direction of the Supreme Court for the purposes of administering this Act. Fees, except those fixed by the board for associate members, shall be prescribed in accordance with Sections 8(a) and (b), rulemaking provisions of this Act. The fees shall be used exclusively for administering the public purposes provided by this Act.

Sec. 11. EXCLUSIVE JURISDICTION OF SUPREME COURT. Rules and regulations governing the admission to the practice of law shall be within the exclusive jurisdiction of the Supreme Court. The officers and directors of the State Bar of Texas have no authority to approve or disapprove of any rule or regulation which governs admissions to the practice of law nor to regulate or administer said admissions standards.

Sec. 12. DISCIPLINE. (a) Any attorney admitted to practice in this state and any attorney specially admitted by a court of this State for a particular proceeding is subject to the disciplinary jurisdiction of the Supreme Court of Texas and its administrative agent, the State Bar of Texas.

(b) In furtherance of the Court's powers to supervise the conduct of attorneys at law, the following grievance procedures are established. The Supreme Court shall, in accordance with Section 8 of this Act, prepare, propose, and adopt rules and regulations for disciplining, suspending, disbarring, and accepting resignations of attorneys as it considers necessary in addition to the minimum standards and procedures provided in this Act.

(c) Disciplinary jurisdiction shall be divided into grievance districts. Each bar district shall have one or more grievance committee districts. The board of directors, with the advice of the director of each Bar district, shall determine whether the State Bar's grievance duties can be performed effectively by one committee for the entire Bar district or whether the same should be divided into more than one grievance committee district. When a Bar district contains more than one grievance committee, all the grievance committees within the district shall have concurrent jurisdiction of any complaint docketed by any of the committees within the district. The committee which originally dockets a complaint may, with the consent of another committee within the district, transfer a complaint to the other committee. The district director, in order to equalize the dockets, or for other good cause, may transfer complaints from one committee to another within the district.

(d) Each grievance committee shall consist of as many members as are deemed necessary by the board of directors for the expeditious transaction of its business.

(e) The president shall on recommendation of the director or directors for the district appoint the members of the grievance committee. Each member of the committee shall be a resident of the grievance committee district for which he or she is appointed. Nothing in this Act shall be construed to preclude nonlawyers from being appointed to grievance committees, but not more than one-third of the total membership shall be nonlawyers.

Annually the committee shall select its own chairperson.

Sec. 13. POWERS OF GRIEVANCE COMMITTEES. (a) The grievance committee shall exercise the powers and perform the duties conferred on it by this Act as well as any other powers and duties imposed by rules or regulations promulgated as provided herein by the Supreme Court.

The grievance committee shall consider and investigate any alleged ground for discipline or alleged incapacity of any attorney called to its attention or on its own motion and take action with respect thereto as shall be appropriate under the disciplinary rules in effect from time to time in this state.

(b) The committee shall maintain records of all matters processed and the disposition thereof. Committee records are confidential and are not subject to the Open Records Law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes). The final action of a committee resulting in a vote to publicly reprimand, suspend, or seek disbarment shall be made public; provided, however, that proceedings which result in a private reprimand shall remain confidential. Nothing shall prohibit the committee, with the consent of the accused attorney, from disclosing final action which clears the attorney of misconduct or which finds no jurisdiction or lack of probable cause to proceed. All records shall be forwarded to the general counsel and he shall maintain a permanent record of such actions, which will be public records for statistical purposes but which are subject to the provisions above concerning privacy.

(c) A "complaint" is defined as an allegation of attorney misconduct or attorney mental incompetency which, if established in fact, could subject the attorney to disciplinary action. Inquiries which do not allege an offense cognizable under the Code of Professional Responsibility or under this Act or which do not show probable cause of professional misconduct shall not be classified as complaints and are not within the disciplinary jurisdiction of the grievance committee.

(d) Every inquiry which the committee determines to be a complaint as defined in this Act shall be docketed by the grievance committee. When docketed, the committee shall notify the general counsel of the State Bar, the complainant, and the accused attorney that the complaint has been scheduled for action by the committee, and the committee shall report periodically to the general counsel its progress in the matter.

(e) Every complaint, as defined in this Act, shall be acted on expeditiously by the grievance committee and the action shall be reported to the general counsel, the complainant, and the accused attorney. If the committee fails to take action on a complaint within a reasonable time, the general counsel shall report the committee's inaction to the president of the State Bar and the director or directors for the bar district which encompasses the grievance committee.

When notified by the general counsel of a committee's inaction, the president of the State Bar, with the advice of the board director for the district concerned, may transfer the complaint to another grievance committee in the Bar district if there is one. The president may discharge a committee and appoint new members, if after consulting the board director for the district concerned the president determines that the committee should be reconstituted to assure the expeditious transaction of disciplinary business. Failure to report grievance matters to the general counsel shall be grounds for the discharge of a committee.

Sec. 14. GRIEVANCE OVERSIGHT COMMITTEE. There shall be created a grievance oversight committee which shall be responsible for reviewing the structure, function, and effectiveness of the grievance procedures which are implemented pursuant to this Act. It shall be composed of nine members to be appointed by the Supreme Court, six of whom shall be licensed members of the State Bar and three of whom shall not be licensed members of the State Bar of Texas. Of the six licensed members of the State Bar, three shall be members or former members of grievance committees. This committee shall report its findings annually to the Supreme Court including any recommendations concerning needed changes in grievance procedures or structures.

The members of this committee shall serve staggered terms of three years each and the initial terms of office of the committee shall be as follows: three members for a term of one year, three members for a term of two years, and three members for a term of three years. The Supreme Court shall designate a

chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar.

Sec. 15. DISBARMENT PROCEEDINGS. (a) The Supreme Court of Texas shall not adopt or promulgate any rule or regulation abrogating the right of trial by jury to either party to a disbarment action in the county of the residence of the accused attorney.

(b) Disbarment proceedings shall be instituted against a resident attorney in a district court located in the county of the attorney's residence; provided, however, that the accused attorney may make application for change of venue pursuant to Texas Rule of Civil Procedure 257. Nothing in this Act shall be construed to prohibit a grievance committee from investigating complaints of professional misconduct alleged to have occurred within the geographical area served by the committee, but any action must be filed in the county of that attorney's residence.

(c) All nonresident attorneys licensed by the Supreme Court are subject to the disciplinary rules and regulations governing resident members of the State Bar; provided, however, that venue in disbarment proceedings against nonresident members of the State Bar shall be in a district court located in Travis County, Texas, or in any county where the alleged misconduct occurred.

Sec. 16. DISCIPLINARY PROCEEDINGS. (a) No attorney shall be suspended from practice, except by the attorney's concurrence under a order of suspension entered by the grievance committee, until such attorney has been convicted of the charge or charges for disbarment pending against him or her in a court of competent jurisdiction. Provided, however, that on proof of conviction of an attorney in any trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation. On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter a judgment disbarring him or her.

Either the grievance committee for the bar district or the general counsel shall have the authority to seek the enforcement of this section.

(b) In any action seeking to disbar an attorney for acts made the basis of a conviction for a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, a fraudulent misappropriation of money or other property, the record of conviction shall be conclusive evidence of the guilt of the attorney for the crime of which he or she was convicted.

(c) Nothing in this Act shall be construed to prevent an attorney from being prosecuted in a disciplinary action after conviction for a criminal act based either on the weight of the conviction or on conduct by the attorney which led to his or her conviction.

Sec. 17. COMMITTEES AND SECTIONS. The board shall create from time to time committees and sections as it considers advisable and necessary to carry out the purpose of this Act. Nothing in this Act shall prevent the appointment of nonlawyers to the State Bar committees.

Sec. 18. COMMITTEE ON PROFESSIONAL ETHICS. (a) A professional ethics committee consisting of nine members of the State Bar to be appointed by the Supreme Court for a term of three years each is established. The initial terms of office of the committee shall be as follows: three members for terms of one year, three members for terms of two years, and three members for terms of three years. The Supreme Court shall designate a chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar. Nothing in this Act shall prevent the court from appointing members of the judicial department to the professional ethics committee.

(b) The standing committee on professional ethics shall:

(1) by the concurrence of a quorum of its members, express its opinion on the propriety of professional conduct, either on its own initiative or when requested to do so by a member of the State Bar of Texas, except that an opinion may not be issued on a question that is pending before a court of this state;

(2) the foregoing provision notwithstanding, the committee may meet in three member panels to express its opinion on behalf of the whole committee; provided, however, if the inquirer is dissatisfied with the panel's opinion, he or she may appeal it to the full committee for review;

(3) periodically publish its issued opinions to the legal profession in summary or complete form and on request provide copies of the opinions to members of the bar or public;

(4) on request advise or otherwise assist State Bar committees or local bar associations relating to the Code of Professional Responsibility;

(5) recommend appropriate amendments or clarifications of the Code of Professional Responsibility, if it considers them advisable; and

(6) adopt such rules as it considers appropriate relating to the procedures to be used in expressing opinions, effective when approved by the Supreme Court. Insofar as it is possible to do so, the committee shall disclose the rationale for its opinion and shall indicate whether it is based on ethical considerations or upon the disciplinary rules.

Opinions of the committee shall not be binding on the Supreme Court.

Sec. 19. UNAUTHORIZED PRACTICE OF LAW. (a) For purposes of this Act, the practice of law embraces the preparation of pleadings and other papers incident to actions of special proceedings and the management of the actions and proceedings on behalf of clients before judges in courts as well as services rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined. This definition is not exclusive, and does not deprive the judicial branch of the power and authority both under this Act and the adjudicated cases to determine whether other services and acts not enumerated in this Act may constitute the practice of law.

(b) The Supreme Court shall appoint an unauthorized practice of law committee for the State Bar, to consist of nine members, three of whom shall be nonlawyers. Except as provided in this Act, members of the committee shall serve for a term of three years beginning with the effective date of this Act. All members of the committee shall be eligible for reappointment. The court shall designate each year which member shall act as chairperson. A majority of the committee shall constitute a quorum. All necessary and actual expenses of the committee should be provided for and paid out of the budget of the State Bar.

The court in making the first appointments shall appoint three members to serve an initial term of one year, three members to serve an initial term of two years, and three members to serve an initial term of three years. Thereafter, each appointed member shall serve a term of three years.

The unauthorized practice of law committee shall keep the court and the State Bar informed with respect to the unauthorized practice of law by lay persons and lay agencies and the participation of attorneys therein and concerning methods for the prevention thereof. The committee shall seek the elimination of the unauthorized practice by action and methods as may be appropriate for that purpose, including the filing of suits in the name of the committee. Nothing in this Act shall prohibit the establishment of local Unauthorized Practice of Law committees to aid and assist this committee in carrying out its purpose.

Sec. 20. CARRY-OVER CLAUSE. (a) All rules and regulations adopted and promulgated by the Supreme Court relating to the State Bar which are in force on the effective date of this Act shall constitute the rules governing the State Bar of Texas until and unless amended pursuant to Section 8 of this Act.

The foregoing provision notwithstanding, any rules and regulations which are in force on the effective date of this Act and which are in conflict with the provisions of this Act are repealed to the extent of the conflict.

(b) The officers and directors of the State Bar who have been elected and are serving on the effective date of this Act shall continue in office for the balance of their term.

(c) All dues and fees assessed and in effect on the effective date of this Act shall remain in force and effect until and unless amended pursuant to Section 8 of this Act.

(d) All bonds, notes, debentures, evidences of indebtedness, mortgages, deeds of trust, assignments, pledges, contracts, leases, agreements, or other contractual obligations owed to or by the State Bar of Texas on the effective date of this Act shall remain in force and effect in accordance with the terms of the obligation.

Sec. 21. The State Bar is subject to the Texas Sunset Act, and unless continued in existence as provided by that Act the State Bar is abolished, and this Act expires effective September 1, 1991.

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

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

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 224	**H.B. 1137**
H.C.R. 215	**H.B. 1146**
H.B. 15	**H.B. 1219**
H.B. 31	**H.B. 1433** (Signed subject to 49a. Art. III, Constitution of State of Texas)
H.B. 42	
H.B. 540	
H.B. 544	

H.B. 546	**H.B. 1503**
H.B. 793	**H.B. 1689**
H.B. 825	**H.B. 1811**
H.B. 915	**H.B. 1831**
H.B. 916	**H.B. 1845**
H.B. 938	**H.B. 1872**
H.B. 1016	**H.B. 1912**
H.B. 1109	**H.B. 2071**
S.B. 143	**H.B. 2096**
S.B. 164	**H.B. 2244**
S.B. 359	**H.B. 1857**
S.B. 455	**S.B. 1077**
S.B. 551	**S.B. 1131**
S.B. 580	**S.B. 1150**
S.B. 712	**S.B. 1158**
S.B. 851	**S.B. 1204**
H.J.R. 121	
S.B. 1218	
S.B. 1306	
S.C.R. 103	

RECESS

On motion of Senator Moore the Senate at 12:21 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1060

Senator Jones of Taylor submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1060** have met and 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.

JONES OF TAYLOR
McKNIGHT
SNELSON
MEIER

On the part of the Senate

DAVIS
SCHLUETER
PEVETO
VON DOHLEN
On the part of the House

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

CONFERENCE COMMITTEE REPORT SENATE BILL 374

Senator Schwartz submitted the following Conference Committee Report:

Austin, Texas
May 17, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 374** have met and 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.

SCHWARTZ
DOGGETT
MAUZY
FARABEE
On the part of the Senate

NABERS
LANEY
McFARLAND
HENDRICKS
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to expunction of criminal records; setting certain fees; amending Chapter 55, Code of Criminal Procedure, 1965, as amended; and amending Chapter 53, Code of Criminal Procedure, 1965, as amended, by adding Article 53.08.

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

SECTION 1. Chapter 55, Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

"Article 55.01. Right to Expunction

"A person who has been arrested for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if each of the following conditions exist:

"(1) an indictment or information charging him with commission of a felony has not been presented against him for an offense arising out of the transaction for which he was arrested or, if an indictment or information charging him with commission of a felony was presented, it has been dismissed and the court finds that it was dismissed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was made;

"(2) he has been released and the charge, if any, has not resulted in a final conviction and, is no longer pending and there was no court ordered supervision under Article 42.13, Code of Criminal Procedure, 1965, as amended, nor a conditional discharge under Section 4.12 of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) [~~has been dismissed~~]; and

"(3) he has not been convicted of a felony in the five years preceding the date of the arrest.

"Article 55.02. Procedure for Expunction

"Section 1. (a) A person who is entitled to expunction of records and files under this chapter may file an ex parte [a] petition for expunction in a district court for the county in which he was arrested.

"(b) The petitioner shall include in the petition a list of all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state and of all central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction.

"Section 2. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition by certified mail, return receipt requested, and such entity may be represented by the attorney responsible for providing such agency with legal representation in other matters.

"Section 3. (a) If the court finds that the petitioner is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction and directing any state agency that sent information concerning the arrest to a central federal depository to request such depository to return all records and files subject to the order of expunction. Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases. When the order of expunction is final, the [~~The~~] clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to each official or agency or other entity of this state or of any political subdivision of this state named in the petition that there is reason to believe has any records or files that are subject to the order. The clerk shall also send a certified copy by certified mail, return receipt requested, of the order to any central federal depository of criminal records that there is reason to believe has any of the records, together with an explanation of the effect of the order and a request that the records in possession of the depository, including any information with respect to the proceeding under this article, be destroyed or returned to the court.

"(b) All returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

"Section 4. (a) If the state establishes that the petitioner is still subject to conviction for an offense arising out of the transaction for which he was arrested

because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against him for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

"(b) Unless the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

"Section 5. (a) On receipt of the order, each official or agency or other entity named in the order shall:

"(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the petitioner and notify the court of its action; and

"(2) delete from its public records all index references to the records and files that are subject to the expunction order.

"(b) The court may give the petitioner all records and files returned to it pursuant to its order.

"(c) If an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the petitioner unless the order permits retention of a record under Section 4 of this article and the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

"Article 55.03. Effect of Expunction

"After entry of an expunction order:

"(1) the release, dissemination, or use of the expunged records and files for any purpose is prohibited;

"(2) except as provided in Subdivision 3 of this article, the petitioner may deny the occurrence of the arrest and the existence of the expunction order; and

"(3) the petitioner or any other person when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

"Article 55.04. Violation of Expunction Order

"Section 1. A person who acquires knowledge of an arrest while an officer or employee or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

"Section 2. A person who knowingly fails to return or to obliterate identifying portions of a record or file ordered expunged under this chapter commits an offense.

"Section 3. An offense under this article is a Class B misdemeanor.

"Article 55.05. Notice of Right of Expunction

"On release or discharge of an arrested person, the person responsible for the release or discharge shall give him a written explanation of his rights under this chapter and a copy of the provisions of this chapter."

SECTION 2. Chapter 53, Code of Criminal Procedure, 1965, as amended, is amended by adding Article 53.08 to read as follows:

"Article 53.08. Fees in Proceedings for Expunction of Criminal Records

"The following fees shall be taxed against the petitioner seeking expunction of a criminal record:

"(1) the fee charged for filing ex parte petitions in other civil actions in district court;

"(2) $1.00 plus postage for each certified mailing of notice of the hearing date;

"(3) $2.00 plus postage for each certified mailing of certified copies of the order of expunction."

SECTION 3. Any law or portion of a law that conflicts with Chapter 55, Code of Criminal Procedure, 1965, as amended, is repealed to the extent of the conflict.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 480.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 480 ADOPTED

Senator Schwartz called from the President's table the Conference Committee Report on **H.B. 480.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 374.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 374 ADOPTED

Senator Schwartz called from the President's table the Conference Committee Report on **S.B. 374.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 1249 (Ordered Not Printed)
H.B. 1207 (Ordered Not Printed)

By unanimous consent, Senator Farabee submitted the following report for the Committee on Jurisprudence:

H.B. 1263
H.B. 571
C.S.H.J.R. 97 (Read first time)

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 227 Instructing the Chief Clerk to make certain changes in enrolling **H.B. 2229**

H.C.R. 231 Instructing the Chief Clerk to make certain corrections in enrolling **H.B. 1503**

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 39	**H.B. 165**	**H.B. 1455**	**H.B. 2080**
H.C.R. 82	**H.B. 179**	**H.B. 1493**	**H.B. 2121**
H.C.R. 90	**H.B. 412**	**H.B. 1540**	**H.B. 2160**
H.C.R. 98	**H.B. 512**	**H.B. 1557**	**H.B. 2234**
H.C.R. 102	**H.B. 595**	**H.B. 1577**	**H.B. 2236**
H.C.R. 103	**H.B. 850**	**H.B. 1625**	**H.B. 2261**
H.C.R. 104	**H.B. 867**	**H.B. 1673**	**H.B. 2275**
H.C.R. 105	**H.B. 962**	**H.B. 1685**	**H.B. 1610**
H.C.R. 106	**H.B. 986**	**H.B. 1691**	
H.C.R. 107	**H.B. 1007**	**H.B. 1708**	
H.C.R. 180	**H.B. 1027**	**H.B. 1719**	
H.C.R. 183	**H.B. 1096**	**H.B. 1775**	
H.C.R. 200	**H.B. 1106**	**H.B. 1806**	
H.C.R. 209	**H.B. 1224**	**H.B. 1834**	
H.C.R. 219	**H.B. 1277**	**H.B. 1898**	
H.C.R. 226	**H.B. 1375**	**H.B. 1954**	
	H.B. 1382	**H.B. 1956**	
	H.B. 1423	**H.B. 1906**	

H.B. 1426 H.B. 1966
H.B. 1451 H.B. 2026

HOUSE CONCURRENT RESOLUTION 227

The President laid before the Senate the following resolution:

H.C.R. 227, Authorizing the Chief Clerk to make certain corrections in **H.B. 2229.**

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE BILL 1249 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and Senate Rule 73 was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1249, Relating to abolition of the State Board of Examiners in the Basic Sciences.

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

HOUSE BILL 1249 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1249** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Yeas: Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Schwartz.

Absent: Andujar, Creighton, Harris, McKnight, Moore.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 4.

Yeas: Andujar, Blake, Brooks, Clower, Creighton, Doggett, Farabee, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Price, Santiesteban, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Braecklein, Howard, Mengden, Schwartz.

Absent: Harris, Moore.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 558 ADOPTED

Senator Jones of Taylor called from the President's table the Conference Committee Report on **H.B. 558.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Jones of Taylor, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Braecklein, Clower, Doggett, Mengden, Patman.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1060 ADOPTED

Senator Jones of Taylor called from the President's table the Conference Committee Report on **H.B. 1060.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

Senator Jones of Taylor moved that the Conference Committee Report be adopted.

Senator Parker made the substitute motion that the Conference Committee Report on **H.B. 1060** be recommitted to the Conference Committee.

The motion was lost by the following vote: Yeas 9, Nays 22.

Yeas: Blake, Clower, Doggett, Harris, Mauzy, Moore, Parker, Short, Truan.

Nays: Andujar, Braecklein, Brooks, Creighton, Farabee, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Ogg, Patman, Price, Santiesteban, Schwartz, Snelson, Traeger, Vale, Williams.

Question recurring on the adoption of the Conference Committee Report, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy, Patman.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House has discharged the conference committee on **S.B. 124** and named the following conferees: Gibson of McLennan, Sharp, Gilley, Maloney, Massey.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1273: House Conferees: Watson - Chairman; Criss, Smith, Hendricks, Bird.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 225 by a non record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1154: House Conferees: Caraway - Chairman; Craddick, Green of Harris, Watson, Massey.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1155: House Conferees: Caraway - Chairman; Craddick, Green of Harris, Watson, Massey.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

VOTE BY WHICH SENATE CONCURRED IN HOUSE AMENDMENTS TO SENATE BILL 139 RECONSIDERED

On motion of Senator Brooks and by unanimous consent, the vote by which the Senate concurred in House amendments to Senate Bill 139 was reconsidered.

Question - Shall the Senate concur in the House amendments to **S.B. 139**?

Senator Brooks moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 139** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Blake, Clower, Price and Truan.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2142

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. No. 2142 have met and 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.

DOGGETT
MAUZY
PATMAN
CLOWER
TRUAN
On the part of the Senate

DELCO
CRAWFORD
MADLA
CAIN
G. THOMPSON
On the part of the House

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

HOUSE CONCURRENT RESOLUTION 231

The President laid before the Senate the following resolution:

H.C.R. 231, Requesting the Chief Clerk of the House to make certain corrections in **H.B. 1503.**

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE JOINT RESOLUTION 97 ORDERED NOT PRINTED

On motion of Senator Schwartz and by unanimous consent, **H.J.R. 97** was ordered not printed.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 350 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 350.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Blake, Jones of Harris.

CONFERENCE COMMITTEE REPORT SENATE BILL 1069

Senator Ogg submitted the following Conference Committee Report:

Austin, Texas
May 25, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1069** have met and 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.

OGG
WILLIAMS
LONGORIA
PARKER
SCHWARTZ
On the part of the Senate

BERLANGA
URIBE
McBEE
RANGEL
SHARP
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the penalty for attempting to limit access to a public beach; amending Subsection (b), Section 61.014, Natural Resources Code.

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

SECTION 1. Subsection (b), Section 61.014, Natural Resources Code, is amended to read as follows:

"(b) Any person who displays or causes to be displayed on any public beach any sign, marker, or warning, or who shall make or have made any written or oral communication which states that the public beach is private property or who states in any other manner that the public does not have the right of access to the public beach in violation of the lawful access rights of the public guaranteed by this subchapter is liable to the state for a civil penalty of [~~, shall be fined~~] not less than $50 [~~$10~~] nor more than $1,000 ($200)."

Section 2. Section 61.013, Natural Resources Code, is amended to read, as follows:

"Section 61.013, Natural Resources Code, is amended to read, as follows:

'Section 61.013. PROHIBITION OF OBSTRUCTIONS. (a) It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively:

(1) to enter or to leave any public beach [~~state owned beach bordering on the seaward shore of the Gulf of Mexico, or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public;~~ or

(2) to use lawfully and legally any public beach or any larger area abutting on or contiguous to a public beach if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public. [~~the state owned beach bordering on the seaward shore of the Gulf of Mexico on which the public has acquired a prescriptive right.~~

(b) For purposes of this section, "public beach" shall mean any beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom. This definition does not include a beach which is not accessible by a public road or public ferry.

(c) A person who creates, erects, or constructs an obstruction, barrier, or restraint in violation of Subsection (a) of this section is liable to the state for a civil penalty of not less than $50 nor more than $1,000.

Section 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT SENATE BILL 1071

Senator Ogg submitted the following Conference Committee Report:

Austin, Texas
May 25, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1071** have met and 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.

OGG
WILLIAMS
LONGORIA
PARKER
SCHWARTZ
On the part of the Senate

BERLANGA
URIBE
McBEE
RANGEL
SHARP
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to regulation of traffic on beaches; providing penalties; amending the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), by adding Subsection (d) to Section 166 and adding Section 17A to Article I; amending Articles 6701l-1 and 6701l-2, Revised Civil Statutes of Texas, 1925, as amended; and repealing Chapter 430, Acts of the 51st Legislature, Regular Session, 1949 (Article 6701d-21, Vernon's Texas Civil Statutes).

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

SECTION 1. Article I, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), is amended by adding Section 17A to read as follows:

"Section 17A. 'Public beach' shall mean any beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom."

SECTION 2. Section 166, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) A person may not operate a motor vehicle on a beach at a speed greater than 25 miles per hour during the daytime or greater than 20 miles per hour during the nighttime."

SECTION 3. Article 6701l-1, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 6701l-1. INTOXICATED DRIVER; PENALTY. Any person who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, on a beach as defined in the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor and upon conviction shall be punished by confinement in the county jail for not less than three (3) days nor more than two (2) years, and by a fine of not less than Fifty ($50.00) Dollars nor more than Five Hundred ($500.00) Dollars. Provided, however, that the presiding judge in such cases at his discretion may commute said jail sentence to a probation period of not less than six (6) months."

SECTION 4. Article 6701l-2, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Article 6701l-2. SUBSEQUENT OFFENSE OF DRIVING WHILE INTOXICATED. Any person who has been convicted of the misdemeanor offense of driving or operating an automobile or other motor vehicle upon any public road or highway in this state, on a beach as defined in the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or upon any street or alley within an incorporated city, town or village, while intoxicated or under the influence of intoxicating liquor, and who shall thereafter drive or operate an automobile or other motor vehicle upon any public road or highway in this state, on a beach as defined in the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall for each and every subsequent such violation be guilty of a felony; and upon conviction shall be punished by a fine of not less than One Hundred ($100.00) Dollars nor more than Five Thousand ($5,000.00) Dollars or confinement in the county jail not less than ten (10) days nor more than two (2) years, or by both such fine and imprisonment, or by confinement in the state penitentiary not to exceed five (5) years."

SECTION 5. Chapter 430, Acts of the 51st Legislature, Regular Session, 1949 (Article 6701d-21, Vernon's Texas Civil Statutes), is repealed.

SECTION 6. An offense committed under the law repealed by this Act is covered by that law as it existed on the date of the offense, and the repealed law is continued in effect for the prosecution of the offense.

SECTION 7. This Act takes effect September 1, 1979.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT SENATE BILL 124

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 124** have met and 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.

DOGGETT
BRAECKLEIN
TRUAN
MAUZY
KOTHMANN
On the part of the Senate

GIBSON
McFARLAND
GILLEY
MASSEY
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to a minimum and maximum age for employment, to mandatory retirement age for public employees, and to activities of certain judges after retirement; and pertaining to causes of actions by violations of this Act and Article 4419e; deferring application of this Act to institutions of higher education until July 1, 1980; amending Section 2, Chapter 327, Acts of the 58th Legislature, 1963 (Article 6252-14, Vernon's Texas Civil Statutes); Section 13.903, Texas Education Code.

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

SECTION 1. Section 2, Chapter 327, Acts of the 58th Legislature, 1963 (Article 6252-14, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. No agency, board, commission, department, or institution of the government of the State of Texas, nor any political subdivision of the State of Texas, shall establish a maximum age under 70 [~~sixty-five (65)~~] years nor a minimum age over 18 [~~twenty-one (21)~~] years for employment, nor shall any person who is a citizen of this State be denied employment by any such agency, board, commission, department or institution or any political subdivision of the State of Texas solely because of age; provided, however, nothing in this Act shall be construed to prevent the imposition of minimum and maximum age restrictions for law enforcement peace officers, or for firefighters, [~~;provided, further, that the provisions of this Act shall not apply to institutions of higher education with established retirement programs~~] where the head of the department determines that substantially all such employees above or below the ages adopted would be unable to perform or continue to perform safely and efficiently the duties of their particular jobs.

SECTION 2. Section 13.903, Texas Education Code, is amended to read as follows:

"Section 13.903. Uniform Retirement Age

"The board of trustees of each public school district in Texas shall have full authority to establish, in conformity with Chapter 327, Acts of the 58th Legislature, 1963 (Article 6252-14, Vernon's Texas Civil Statutes), a uniform

retirement age for its professional and supportive personnel [~~and notwithstanding any provision to the contrary~~]. No district shall be required to retain any person in its employment after an employee [~~he~~] reaches such prescribed age."

SECTION 3. A mandatory retirement age for public employees that is in effect on the effective date of this Act and that violates this Act is void.

SECTION 4. The provisions of this Act shall not apply to state institutions of higher education until July 1, 1980.

SECTION 5. An individual aggrieved by conduct in violation of this Act or Article 4419e, Vernon's Texas Civil Statutes, may file a suit against the appropriate employer in a court of competent jurisdiction for compensatory damages or appropriate equitable relief. The court shall also award the prevailing party, if other than an employer, interest of 10 percent per year on damages proved, attorney's fees reasonable in relation to the amount of work expended, and court costs. A public employer is liable for costs and attorney's fees to the same extent as a private person.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1626.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1626

Senator Mauzy called from the President's table the Conference Committee Report on **H.B. 1626.** (The Conference Committee Report having been filed with the Senate and read today.)

Senator Mauzy moved that the Senate adopt the Conference Committee Report on **H.B. 1626.**

Senator Brooks made the substitute motion that the Conference Committee Report on **H.B. 1626** be recommitted to the Conference Committee.

The substitute motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1626.**

On motion of Senator Brooks and by unanimous consent, the Conference Committee on **H.B. 1626** was instructed to report back to the Senate by 6:00 o'clock p.m. today or at such time as the Senate reconvenes after evening recess.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

S.B. 588 Relating to fees allowed to sheriffs and constables. (With amendments)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT SENATE BILL 1273

Senator Mengden submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1273** have met and 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.

MENGDEN
HARRIS
BROOKS
OGG
WILLIAMS
On the part of the Senate

WATSON
BIRD
CRISS
SMITH
HENDRICKS
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the authority of certain cities to annex a municipal utility district.

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

SECTION 1. The Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is amended by adding Section 8a to read as follows:

"Section 8a. ANNEXATION OF MUNICIPAL UTILITY DISTRICT. (a) A general-law city with a population of 1,250 or more, according to the most recent federal census, may annex a municipal utility district if:

"(1) all the territory of the municipal utility district is located within the extraterritorial jurisdiction of the city;

"(2) the municipal utility district's boundaries are adjacent to the boundaries of the city on two or more sides;

"(3) the municipal utility district makes use of city sewage treatment facilities for the treatment of district sewage:

"(A) under a contract the term of which does not extend beyond the period for which outstanding bonds for the sewage treatment facility were issued; or

"(B) without a contract;

"(4) the municipal utility district did not share in the capital costs for the design and construction of the city sewage treatment plant; and

"(5) the entire municipal utility district is annexed by the city.

"(b) The provisions of this Act limiting the amount of territory a city may annex in a calendar year do not apply to an annexation covered by this section. Territory may be annexed under this section without the consent of the residents of the municipal utility district if:

"(1) not later than the 60th day before the date on which the annexation ordinance is adopted the city publishes a notice in a newspaper of general circulation in the municipal utility district stating that the city proposes to annex the district; and

"(2) a petition opposing the proposed annexation and signed by a majority of the resident qualified voters of the district is not filed with the governing body of the city on or after the date on which the notice is published but before the date on which the annexation ordinance is adopted."

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

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

SENATE BILL 910 WITH HOUSE AMENDMENTS

Senator McKnight called **S.B. 910** from the President's table for consideration of the House amendments to the bill.

Senator McKnight moved that the Senate concur in the House amendments to **S.B. 910.**

Senator Schwartz made the substitute motion that the Senate do not concur in the House amendments.

The substitute motion prevailed by the following vote: Yeas 17, Nays 14.

Yeas: Blake, Braecklein, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Patman, Santiesteban, Schwartz, Short, Truan, Vale.

Nays: Andujar, Creighton, Farabee, Harris, Jones of Taylor, McKnight, Mengden, Moore, Ogg, Parker, Price, Snelson, Traeger, Williams.

(Senator Snelson in Chair)

HOUSE BILL 1924 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1924, Relating to suspension of a driver's license and employment of a person without a license.

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

HOUSE BILL 1924 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1924** 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 806 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 806, Relating to the exemption of certain military pay and allowances from the inheritance tax.

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

HOUSE BILL 806 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 806** 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 1735 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1735, Relating to the defense and indemnification of persons serving on the governing boards of foundations, corporations, or associations at the request and on behalf of The University of Texas System.

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

HOUSE BILL 1735 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1735** 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.

HOUSE JOINT RESOLUTION 133 ON SECOND READING

On motion of Senator Howard and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 133, A joint resolution proposing a constitutional amendment to provide for legislative review of the process of rulemaking by agencies in the executive department.

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

HOUSE JOINT RESOLUTION 133 ON THIRD READING

Senator Howard moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 133** 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 1741 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1741, Relating to the definition of obscene and to the elements of and penalty for the offense of obscenity.

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

HOUSE BILL 1741 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1741** 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.

CONFERENCE COMMITTEE REPORT
HOUSE CONCURRENT RESOLUTION 74

Senator Mengden submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.C.R. 74** have met and 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.

MENGDEN
JONES OF HARRIS
WILLIAMS
On the part of the Senate

HENDERSON
HALL
PIERCE
BIRD
EMMETT
On the part of the House

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

CONFERENCE COMMITTEE REPORT SENATE BILL 662

Senator Ogg submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 662** have met and 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.

OGG
TRAEGER
JONES OF HARRIS
SCHWARTZ
SANTIESTEBAN
On the part of the Senate

HENDERSON
NOWLIN
LALOR
CARTWRIGHT
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to powers, duties, and administration of metropolitan transit authorities; providing penalties.

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

SECTION 1. Subsection (e), Section 4, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided, however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal, and [~~which shall become final unless~~] the member, before the 11th day after receipt of the statement, may request [~~within 10 days, requests~~] a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, it shall confirm its decision to remove the member [~~then its decision shall be final~~].

(2) In addition to the method of removal of board members provided by Subsection (e)(1) of this section, board members of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, are subject to removal by the recall procedure provided by subsection (e)(2).

(i) The qualified voters of the authority by petition may require that an election be held to determine whether a member of the board is to be removed from office. A petition is valid if it states that it is intended to require an election in the authority on the question of removing an identified board member, if it is signed by qualified voters equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters, if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the board, and if it is submitted to the board before the first day of the final six months of the term of the member whose removal is sought.

(ii) After receiving a petition, the board shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine whether or not the petition is valid and shall notify the board of the finding. If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.

(iii) If the board receives notice from the secretary of state that the petition is valid or if the secretary of state has failed to act within the time allowed, the board shall order that an election be held in the authority on a date not fewer than 25 nor more than 35 days after the last day on which the petition could have been approved or disapproved. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "The removal of (name of officer) from the rapid transit authority board by recall."

(iv) If a majority of the qualified voters voting on the question in the election favor the proposition, the member is removed, and the office immediately becomes vacant. The appointing authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.

(v) A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of removal equal to the length of a normal term of a member of the board.

SECTION 2. Section 4, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (g) as follows:

(g) The board shall notice and hold its meetings pursuant to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except that the board shall have notices of its meetings posted on a bulletin board located at a place convenient to the public at its administrative offices and a bulletin board located at a place convenient to the public at the county courthouse of the most populous county in which the principal city is located.

SECTION 3. Subsection (e) of Section 6B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The terms of office of any [~~all~~] members of the board appointed after the confirmation and tax election and after the effective date of this Act are four [~~two~~] years, except that in order to provide staggered terms, the terms of office of one-half of the first members appointed by an appointing agency after the effective date of this Act [~~after the election~~], if an even number is to be appointed by an agency, and a bare majority of the first members appointed by the agency, if an odd number greater than one is to be appointed by an agency, are two [~~one~~] years [~~year~~]. In addition, the appointing agency may shorten the initial terms to make the expiration dates coincide with those of the previously existing positions. To be eligible for appointment to the board, a person must be a qualified voter residing within the boundaries of the authority. No member of the board may serve more than two consecutive four year terms.

SECTION 4. Subsections (e), (g), and (h), Section 5, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held under the provisions of this Act shall be furnished to the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor and to the comptroller of public accounts.

(g) Immediately after the election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results separately with respect to each unit of election. In those units of election where a majority of the votes cast is in favor of the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall continue to exist and be comprised of those units. In those units of election where a majority of the votes cast is against the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall cease to exist. Unless the vote is favorable in the unit of election which includes the principal city, the authority shall cease to exist in its entirety. If the votes cast are such that the authority will continue to exist, the board shall enter the results on its minutes and adopt an order declaring that the creation of the authority is confirmed and describing the territory which comprises the authority. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor, and with the comptroller of public accounts, and in the deed records of each county in which the authority is located. The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition in each election unit, and the number of votes by which the proposition was approved in each election unit in which it was approved and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(h) If the votes cast at the confirmation and tax election are such that the authority ceases to exist in its entirety, the board shall enter an order so declaring and file a certified copy of the order with the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor and with the comptroller of public accounts, and the authority shall be dissolved.

SECTION 5. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Sections 5A and 5B to read as follows:

Sec. 5A. ELECTION CONTEST. (a) If the validity of any election held under authority of this Act or the result of the election based on the returns thereof shall be contested, the election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the comptroller of public accounts by United States registered mail or certified mail within 10 days after filing the contest by mailing a copy of such notice of contest to the comptroller showing the style of the contest, the date filed, the case number, and the court in which the same is pending; and provided further that no such contest shall be heard unless the comptroller is timely notified as provided in this subsection.

(b) Upon receipt of a notice of contest, the date upon which such local sales and use tax shall become effective in any authority as a result of the election shall be suspended. When a final judgment shall be entered in the election in the election contest, the presiding officer of the board shall so notify the comptroller by United States registered mail or certified mail and shall enclose a certified copy of the final judgment. If the judgment sustains the validity of the election or the result of the election so that the local sales and use tax status under this Act of the authority is changed, the comptroller shall place in effect the tax in the authority, substituting the notice of final judgment and the date on which it is received, for the notice of the result of the election. This section applies only to elections held and election contests filed after the effective date of this Act.

Sec. 5B. EFFECTIVE DATE - LOCAL SALES AND USE TAX. Upon actual receipt by the comptroller of public accounts of notification of adoption

of a local sales and use tax containing the information required by Subsection (g) of Section 5, there shall elapse one whole calendar quarter prior to the adoption of a local sales and use tax becoming effective. Thereafter, the adoption shall be effective beginning on the first day of the next calendar quarter following the elapsed calendar quarter.

SECTION 6. Subsections (d), (f), and (h), Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act. Before an authority acquires an interest in real property for more than $20,000, the board of the authority shall cause the property to be appraised by two appraisers working independently of each other.

(f) In the event the authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(h) Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended, insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use. At least 30 days before adopting a resolution under this subsection, however, a board shall hold a public hearing on the question of acquisition of the property or interest for which eminent domain proceedings are being considered. The board shall hold the hearing at a place convenient to residents of the area in which the property is located. The board shall cause notice of the hearing to be published in a newspaper of general circulation in the county in which the property is located at least once each week for two weeks before the date of the hearing.

SECTION 7. Subsection (e), Section 6A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) At the time territory is added to an authority under the provisions of this section, any tax other than a local sales and use tax which the board of the authority has already been authorized to levy applies to the added territory.

(2) If an authority in which a local sales and use tax has been imposed changes or alters its boundaries, the presiding officer of the board shall forward to the comptroller of public accounts by United States registered mail or certified mail a certified copy of the order adding territory to the authority or of the order canvassing the returns and declaring the result of the election. The order shall reflect the effective date of the tax and shall be accompanied by a map of the authority clearly showing the territory added or detached. Upon receipt of the order and map, the tax imposed by Section 11B of this Act shall be effective in the added territory on the first day of the next succeeding quarter. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order and map that he requires more time, the comptroller shall be entitled to delay implementation one whole calendar quarter. Thereafter, the tax shall be effective in the added territory on the first day of the next calendar quarter following the elapsed quarter.

SECTION 8. Section 7, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil States), is amended to add Subsection (i) to read as follows:

(i) Notwithstanding the provisions of Section 7, the authority, acting by board order or resolution, has the power to issue short-term bonds or notes secured by revenues or taxes for any purpose, provided that the repayment of the bonds or notes must be satisfied out of revenues or taxes received during the period from the date of issuance to the last day of the fiscal year in which the bonds or notes are issued. Any such short-term bonds or notes need not be approved by the Attorney General of Texas nor registered by the Comptroller of Public Accounts of the State of Texas.

SECTION 9. Subsection (d), Section 6C, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex. A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no land or interest [~~lands or interests~~] in land that is more than 1,500 feet in distance from the center point of the complex or that has not been included in a master plan of development adopted by the board may be acquired for the facilities. Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the board shall designate the center point prior to the commencement of eminent domain proceedings. If a proposed station or terminal complex is to be located within the city limits or extraterritorial jurisdiction of a city or town, the governing body of the city or town must approve the location of the complex as to conformity with the comprehensive or general plan of the city or town by motion, resolution, or ordinance duly adopted.

SECTION 10. Section 11A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) The board of an authority by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate. In addition, the qualified voters of an authority by petition may require that an election be held on the question of increasing the tax rate. A petition is valid if it is by qualified voters of the authority equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters.

(f) After receiving a petition, the board shall submit the petition to the secretary of state for validation. The secretary of state shall rule on the validity of the petition not later than the 30th day after the day he or she receives the petition and shall notify the board of the ruling. If the secretary of state finds the petition valid or fails to act within the time allowed, the board shall call an election. The authority shall pay the costs of determining the validity of a petition, if any, and of the election.

(g) At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)." The increase or decrease in the tax rate shall be effective if it is approved by a majority of the votes cast by voters residing within the boundaries of the territory of the authority at the date of the election. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be filed in the deed records of each county in which the authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act.

(h) If there is an increase or decrease in the rate of a local sales and use tax already levied, the new rate takes effect on the first day of the next calendar quarter after actual notification to the comptroller of public accounts. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order that he or she requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

SECTION 11. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) subject to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority, the sales tax portion of which shall not exceed one percent on receipts from the sale of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended. The provisions of this section shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 12. Subdivision (e), Subsection (B), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The following provisions shall govern the collection by the comptroller of the tax imposed by this Act:

(1) All applicable provisions contained in the Limited Sales, Excise and Use Tax Act or in Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

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

(3) The penalties provided in the Limited Sales, Excise, and Use Tax Act for violations of that Act and the penalties provided in Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, for violation of that title, are hereby made applicable to violations of this Act.

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

SECTION 13. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 12A as follows:

Sec. 12A. ANNUAL BUDGET. Prior to the commencement of a fiscal year, the board shall adopt an annual operating budget which specifies major expenditures by type and amount. Before the board adopts its annual operating budget, it shall conduct a public hearing and shall make the proposed annual operating budget available to the public at least 14 days prior to the hearing. An annual operating budget must be adopted before the authority conducts business in a fiscal year. The authority may not make operating expenditures in excess of the total budgeted operating expenditures for a fiscal year unless the board amends the operating budget by order after public notice and hearing.

SECTION 14. Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CONTRACTS FOR CONSTRUCTION, GOODS, OR SERVICES [~~COMPETITIVE BIDS~~] (a). Contracts for more than $5,000 [~~$2,000~~] for the construction of improvements or the purchase of material, machinery, equipment supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts and providing for the waiver of this requirement in the event of emergency. This subsection does [~~section shall~~] not apply to personal and professional services or to the acquisition of existing transit systems.

(b) The board of an authority may not let a contract (1) that is not subject to competitive bidding requirements, (2) that is for more than $10,000 and (3) that is for the purchase of real property or for consulting or professional services, unless an announcement that a contract is being considered is posted in a prominent place in the principal office of the authority for at least two weeks before the contract is awarded. This subsection does not apply to the acquisition of existing transit systems.

SECTION 15. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 13A to read as follows:

Sec. 13A. TORT CLAIMS. Any authority established hereunder shall be within the definition of "unit of government" as defined by the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes), and all operations of an authority are deemed to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

SECTION 16. This Act takes effect September 1, 1979.

SECTION 17. The importance of this legislation and the crowded calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

HOUSE BILL 2200 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2200, Making an appropriation to the Board of Control for repairs to the Sam Houston State Office Building; and declaring an emergency. (Submitted by Governor as an emergency.)

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

HOUSE BILL 2200 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2200** 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 1325 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1325, Relating to firemen's and policemen's civil service; providing penalties.

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

HOUSE BILL 1325 ON THIRD READING

Senator Williams moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1325** 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.

Senator Williams offered the following committee amendment to the bill:

Amend page 9, line 5 to read as follows:

the Department [~~six (6) months~~] as a fireman, policeman, or trainee in an academy.

The committee amendment was read and was adopted by unanimous consent.

Senator Williams offered the following committee amendment to the bill:

Amend page 10, lines 14-15 to read as follows:

Sec. 13. NOTICE OF EXAMINATIONS. At least ten (10) days in advance of any entrance examination [~~or~~] and at least thirty (30) days in advance of any examination for promotion.

The committee amendment was read and was adopted by unanimous consent.

Senator Williams offered the following committee amendment to the bill:

Amend page 16, line 4 to read as follows:

working days, appeal the same to the Commission for review in accordance

The committee amendment was read and was adopted by unanimous consent.

Senator Williams offered the following committee amendment to the bill:

Amend page 18, line 19 to read as follows:

the Commission shall certify within ten (10) days after notification of the vacancy to the Head of

The committee amendment was read and was adopted by unanimous consent.

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

The bill as amended was then finally passed.

HOUSE BILL 408 ON SECOND READING

Senator Mauzy asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 408, Relating to the pay of election judges and clerks.

There was objection.

Senator Mauzy then moved to suspend the regular order of business and take up **H.B. 408** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Creighton, Farabee, Harris, Jones of Taylor, Mengden.

Absent: McKnight.

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

HOUSE BILL 408 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 408** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Farabee, Mengden.

Absent: McKnight.

The bill was read third time and was passed.

HOUSE BILL 1558 ON SECOND READING

Senator Andujar asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 1558, Relating to standardization of state agency publications.

There was objection.

Senator Andujar then moved to suspend the regular order of business and take up **H.B. 1558** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Mauzy, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Brooks, Longoria, Truan.

Absent: McKnight.

The bill was read second time.

Senator Andujar offered the following amendment to the bill:

Amend H.B. No. 1558 by striking Sec. 1A of SECTION 1 in its entirety and substituting in lieu thereof the following:

"Sec. 1A. This Act does not apply to the Texas Tourist Development Agency, the State Department of Highways and Public Transportation, the Texas Department of Agriculture or a report or other document that produces revenue sufficient to pay the costs of its production."

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

HOUSE BILL 1558 ON THIRD READING

Senator Andujar moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1558** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

The bill was read third time and was passed.

(President in Chair)

HOUSE BILL 852 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 852, Repealing the law requiring cuspidors in railway stations and on passenger trains.

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

HOUSE BILL 852 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 852** 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.

HOUSE BILL 1794 ON SECOND READING

On motion of Senator Snelson and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1794, Relating to action on certain applications by the Texas Water Commission.

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

HOUSE BILL 1794 ON THIRD READING

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1794** 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.

CONFERENCE COMMITTEE REPORT SENATE BILL 284

Senator Short submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 284** have met and 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.

SHORT
MAUZY
MEIER
JONES OF TAYLOR
HARRIS
On the part of the Senate

ROBNETT
GRUBBS
MALONEY
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the expulsion of certain foreign students from public institutions of higher education and defining a phrase; adding Section 51.909 to Subchapter Z, Chapter 51, Texas Education Code, as amended.

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

SECTION 1. Subchapter Z, Chapter 51, Texas Education Code, as amended, is amended by adding Section 51.909 to read as follows:

"Section 51.909. EXPULSION OF CERTAIN FOREIGN STUDENTS. (a) The governing board of a public institution of higher education may expel from that institution any student who is a citizen of a country other than the United States attending the institution under a nonimmigrant visa issued by the Immigration and Naturalization Service and who is finally convicted of an offense under Section 28.03, 28.04, 42.02, 42.03, 42.05, or 42.09, Penal Code, as amended, or under Section 4.30 of this code."

(b) In this section, a person is finally convicted if the conviction has not been reversed on appeal and all appeals, if any, have been exhausted.

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

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 530 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 530.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Parker, Patman, Price, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Nays: Brooks, Doggett, Ogg, Santiesteban, Vale.

HOUSE BILL 1474 ON SECOND READING

On motion of Senator Clower and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1474, Relating to the appointment and commissions of notaries public and the duties of the secretary of state and county clerks in matters pertaining to notaries public.

The bill was read second time.

Senator Clower offered the following committee amendment to the bill:

Amend **H.B. 1474** by deleting the word "four" on line 12 page 1 and substituting the word "two".

The committee amendment was read.

Senator Clower offered the following substitute for the committee amendment:

Amend H.B. No. 1474 by inserting the following between the period and the word "Said" on line 2 on page 7:

The State Board of Insurance may at its discretion approve rates for a four year notary bond issued subsequent to the effective date of this Act equivalent to twice the rate set previously for two year notary bonds.

The substitute for the committee amendment was read and was adopted.

The committee amendment as substituted was then adopted.

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

The bill as amended was passed to third reading.

HOUSE BILL 1474 ON THIRD READING

Senator Clower moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1474** 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.

HOUSE JOINT RESOLUTION 108 ON SECOND READING

On motion of Senator Clower and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 108, A joint resolution proposing a constitutional amendment relating to the appointment and terms of notaries public.

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

HOUSE JOINT RESOLUTION 108 ON THIRD READING

Senator Clower moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 108** 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 1362 ON SECOND READING

Senator McKnight asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1362, Relating to the Unemployment Compensation Special Administration Fund.

There was objection.

Senator McKnight then moved to suspend the regular order of business and take up **H.B. 1362** for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy.

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

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1362 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1362** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

The bill was read third time and was passed.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RESOLUTION 749

Senator Schwartz offered the following resolution:

WHEREAS, May 30 marks a significant day in the history of Texas politics; on this day was born the Senator from San Antonio, Glenn Kothmann; and

WHEREAS, he was educated in the public schools of San Antonio and was graduated from Texas A&M University; he also was graduated from the Armored School of Fort Knox, Kentucky; the Infantry School at Fort Benning, Georgia; the Civil Affairs School at Fort Gordon, Georgia; and the Command and General Staff College at Fort Leavenworth, Kansas; and

WHEREAS, Senator Kothmann was first elected to public office in 1956 when he began what would be a five-term tenure in the Texas House of Representatives; in 1970 he was elected to the State Senate representing District 19 in Bexar County; and

WHEREAS, At the beginning of the Regular Session of the 64th Legislature, he was elected President Pro Tempore of the Senate, and in June of 1975, he was made Governor for a day; and

WHEREAS, He currently serves as a Colonel in the Texas National Guard and is soon to be appointed to the rank of Brigadier General; and

WHEREAS, Early in his career, Senator Kothmann taught history and government in the public schools of San Antonio; for many years now, he has been in the cattle and ranching business and presently is engaged in the real estate business; and

WHEREAS, During his tenure in the Senate, he has served on almost every major committee and currently serves as Vice-Chairman of the Senate State

Affairs Committee and as a member of both the Intergovernmental Relations and Natural Resources Committees; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 66th Legislature, extend birthday greetings to their colleague with the sincere wish for a happy and healthy birthday; and, be it further

RESOLVED, That an official copy of this Resolution be prepared under the seal of the Senate as a memento of this birthday's passing.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Schwartz and by unanimous consent, the resolution was considered immediately and was adopted.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 228 Instructing the Chief Clerk to make certain changes in enrolling **H.B. 1918**

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RECESS

On motion of Senator Moore the Senate at 6:03 o'clock p.m. took recess until 7:15 o'clock p.m. today.

AFTER RECESS

The Senate met at 7:15 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Joint Resolution No. 7.

House Conferees: Slack, Chairman; Washington, Brown, Delco, Willis

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 139.

House Conferees: Nabers, Chairman; Donaldson, Washington, Wright, R. Wilson.

The House refused to concur in Senate amendments to House Bill No. 1558 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: L. Hall, G. Green, G. Thompson, Gilley, Leonard

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORT OF SPECIAL COMMITTEE

Austin, Texas
May 28, 1979

Honorable William P. Hobby, Lieutenant Governor
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

Pursuant to House Concurrent Resolution No. 5, We your Committee to designate the Poet Laureate of the State of Texas for the year beginning May 1, 1979, and ending April 30, 1980, have had the same under consideration and hereby appoint and designate Dorothy Bennencourt Elfstrom of Galveston, Texas, and Mrs. Ruth Carruth of Vernon as Alternate for the same period. We further appoint and designate Mr. Weems S. Dykes of McCamey, Texas for the year beginning May 1, 1980, and ending April 30, 1981 and Mildred Crabtree Speer of Amarillo, Texas as Alternate for the same period.

/s/Don Cavness - Governor's Office
/s/A. R. Schwartz - Senate
/s/W. E. Snelson - Senate
/s/W. S. "Bill" Heatly - House of Representatives
/s/Bob Simpson - House of Representatives

The Report of the Special Committee was read and filed with the Secretary of the Senate.

HOUSE CONCURRENT RESOLUTION 228

The President laid before the Senate the following resolution:

H.C.R. 228, Authorizing the Chief Clerk to make certain corrections in **H.B. 1918.**

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RESOLUTION 745

(Caucus Report)

Senator Moore offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held on May 28, 1979, and attended by 31 members of the Senate the following recommendations were made, to-wit:

BE IT RESOLVED BY THE SENATE:

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of her office and to perform duties as may be required in connection with the business of the State from the closing of this session and until the convening of the next session.

The Sergeant-at-Arms shall be retained and a number of assistants as necessary in the operation of the Senate until the convening of the next session.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Room, Staff Services Room, Calendar Clerk and Journal Clerk. The Committee on Administration shall establish the salaries to be paid the Senate staff.

The Chairman of the Senate Commitee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvements as are necessary between the adjournment of this session and the convening of the next session of the legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the members, as well as of the supplies and equipment on hand in the room of the Sergeant-at-Arms and close his books for the Regular Session of the Sixty-Sixth Legislature. No equipment shall be acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine

records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the Regular Session of the 66th Legislature and when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate and one volume thus bound shall be forwarded by the Secretary of the Senate to each member of the Senate, each member of the House of Representatives on request, to the Lieutenant Governor, and 65 paper bound copies shall be furnished to the State Library. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said Chairman to refuse to receive or receipt for said Senate Journals until corrected and published in accordance with the pre-existing law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 66th Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 66th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, members of the Senate, and employees of the Senate committee upon presentation of a payroll account signed by the President of the Senate and the Secretary of the Senate; for payment of employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429F, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies and expenses of the Senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the Legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual members office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the members when traveling in performance of such duties and responsibilities or incident thereto, and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin, but may be incurred in individual Senatorial Districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the 66th Legislature, Regular Session through August 31, 1979, each Senator shall be permitted to employ secretarial and other office staff at a maximum payroll of $7,848.00 per month and from September 1, 1979, until the convening of the next regular or special session each Senator shall be permitted to employ secretarial and other

office staff at a maximum payroll of $6,848.00 per month under the classification schedule hereinafter provided. Other expenses including actual travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of his office or incident thereto shall be provided in addition to the maximum salary authorized.

It is further recommended that each employee of the Senate except elected officers be classified and paid pursuant to the following schedule to include salary changes made by the General Appropriations Act:

Title	Class Number	Group	Salary and Step Range
Clerk I	0051	02	552(1)- 571(2)- 590(3)
Messenger	0011	02	610(4)- 630(5)- 651(6)
Clerk Typist II	0106	04	630(1)- 651(2)- 673(3)
Stenographer I	0126	04	696(4)- 719(5)- 743(6)
Secretary II	0133	05	768(5)- 794(6)- 820(7)
Secretary III	0135	07	876(5)- 906(6)- 936(7)
Admin. Secretary	0138	09	1000(5)-1034(6)-1068(7)
Info. Spec. I	1892	14	1219(1)-1259(2)-1302(3)
Admin. Tech. I	1501	08	936(5)- 968(6)-1000(7)
Admin. Tech. II	1502	11	1104(4)-1141(5)-1179(6)
Admin. Tech. III	1503	13	1219(3)-1259(4)-1302(5)
Admin. Tech. IV	1504	15	1391(3)-1437(4)-1486(5)
Info. Spec. II	1893	16	1437(2)-1486(3)-1535(4)
Attorney III	3533	17	1486(1)-1535(2)-1587(3)
Research Asst. II	1517	13	1345(6)-1391(7)-1437(8)
ADP Equip. Oper. I	0221	07	768(1)- 820(3)- 876(5)
Rep. Equip. Oper. I	0309	09	876(1)- 936(3)-1000(5)

Employees who do not readily fit one of the above classified positions may be assigned a title under the general Classified Positions outlined in the General Appropriations Act upon authorization of the Administratin Committee; and, be it further

RESOLVED, That the Lieutenant Governor shall have the authority to appoint any member of the Senate, the Secretary of the Senate or other Senate employees to attend National Legislative Conferences and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate; and, be it further

RESOLVED, That each of the Standing Committees and the Subcommittees of the Senate of the 66th Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation and perform research on matters directed either by resolution, the Lieutenant Governor or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

RESOLVED, That there is hereby created a committee whose membership shall consist of all 31 Senators and the Dean of the Senate shall preside as Chairman. The Chairman may appoint a vice-chairman or chairman pro tempore to preside in the absence of the Chairman.

The committee has the duty and authority to supervise all matters relating to the elected officers or internal affairs of the Senate. The committee has the power to do all things reasonable and necessary in carrying out its responsibilities including, but not limited to, the discharge of elected officers, filling vacancies in any elected office, determining salaries of elected officers, and prescribing the powers, functions, responsibilities and duties of the several elected officers of the Senate. The committee shall meet at the call of the Chairman or at a date specified in a written request of eleven members or as may be determined by the committee after its initial meeting. Twenty-one members shall constitute a quorum and a majority of the quorum may take action.

The operating expenses of this committee shall be paid from the contingent expense fund of the Senate and the committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committee; and, be it further

RESOLVED, that no employee of the Senate shall, during the time he or she is employed, furnish to any person, firm or corporation any information other than general information furnished the public pertaining to the Senate and they shall not without permission receive any compensation from any person, firm or corporation during their employment by the Senate and any employee found guilty of violating this provision shall be immediately discharged.

RESOLVED, That the Secretary of the Senate is specifically directed not to permit the removal of any of the property of the Senate and from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

Respectfully submitted,

/s/William T. Moore
Chairman of the Caucus

/s/W. E. Snelson
Secretary of the Caucus

The resolution was read and was adopted.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the adoption of the resolution.

CONFERENCE COMMITTEE REPORT SENATE BILL 1154

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1154** have met and 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.

BROOKS
KOTHMANN
OGG
SCHWARTZ
WILLIAMS
On the part of the Senate

CARAWAY
G. GREEN
WATSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

providing conditions for when this Act is effective; vesting the Clear Lake City Water Authority (the "authority") with solid waste collection and disposal powers, parks and recreational facility powers, fire-fighting and fire prevention powers, the power, under Article III, Section 52, of the Constitution of the State of Texas, to issue bonds secured by taxes and to levy, assess, and collect such taxes for road construction, maintenance, and operation after the approval at an election by two-thirds of qualified electors who vote; the power, under Article III, Section 52, of the Constitution of the State of Texas to levy and collect a road maintenance tax; the power to issue bonds and levy, assess, and collect ad valorem taxes for any of its purposes after approval at an election; the power to levy, assess, and collect a maintenance tax for any of its purposes; providing for emergency medical services; providing for review and approval of the bonds of the authority; empowering the authority to establish fees for its services; providing for a manner of dissolving the authority; permitting expansion of the board of directors; enabling the authority to enact and enforce reasonable rules and regulations and providing penalties; permitting the authority to issue refunding bonds and to redefine boundaries; requiring the approval at an election before the authority may issue revenue bonds; authorizing the authority to issue negotiable tax anticipation notes; authorizing the authority to employ or engage personnel; staying the term during which the Act will be effective; providing a severability clause; finding public benefit; requiring liberal construction; finding compliance with requirements of Article XVI, Section 59, of the Constitution of the State of Texas; providing for no requirement to contract or forsake remedies; containing other provisions; and declaring an emergency.

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

SECTION 1. The provisions of this Act are subject to and shall be effective only so long as the Clear Lake City Water Authority (the "authority") is performing services in accordance with a contract for the allocation of governmental services and the apportionment of ad valorem taxes between the authority and a home-rule city, town, or village in a county having a population in excess of 1,200,000, according to the last preceding or any future federal census.

SECTION 2. The authority shall have the power to construct, lease, purchase, or otherwise acquire, own, operate, use, maintain, repair, improve,

and extend a solid waste collection and disposal system and make proper charges for the services provided thereby. The term "solid waste collection and disposal system" shall mean any or all real, personal, or mixed property or contract right or any interest therein deemed necessary or appropriate by the authority for the collection or disposal, either within or outside the boundaries of the authority, of "solid waste," as that term is defined by the Solid Waste Disposal Act, as amended (Article 4477-7, Vernon's Texas Civil Statutes).

SECTION 3. The authority shall have the power to construct, lease, purchase, or otherwise acquire, own, operate, use, maintain, repair, improve, and extend parks, playgrounds, and recreational facilities and any or all real, personal, or mixed property or contract right or any interest therein deemed necessary or appropriate by the authority for use by persons who reside withi or outside the boundaries of the authority.

SECTION 4. The authority shall have the power to construct, lease, purchase, or otherwise acquire, own, operate, use, maintain, repair, improve, and extend fire-fighting and fire prevention equipment and appliances, including but not limited to fire engines, fire stations, alarm systems, and any or all real, personal, or mixed property or contract right or any interest therein deemed necessary or appropriate by the authority to protect the persons and property within or outside the boundaries of the authority from fire.

SECTION 5. In addition to all other powers granted to the authority, it may, after approval by a two-thirds majority of the qualified electors voting at an election called for the purpose, issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of the authority and levy and collect ad valorem taxes in an amount sufficient to pay the interest thereon and provide a sinking fund for the redemption thereof in accordance with the provisions of Article III, Section 52, of the Constitution of Texas for the construction, maintenance, and operation of macadamized, graveled, or paved roads or bridges, or in aid thereof, serving areas within the authority.

The election shall be called, conducted, and canvassed and notice thereof shall be given in accordance with the provisions of law governing the conduct of bond elections by the authority; provided, however, that the ballot proposition shall read as follows: "The issuance of bonds to be repaid from an adequate levy of ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads, or in aid thereof, serving areas within or adjacent to the authority."

SECTION 6. The authority may, after approval by a two-thirds majority of the qualified electors voting at an election called for the purpose, levy and collect ad valorem taxes in an amount sufficient to maintain or operate the macadamized, graveled, or paved roads serving areas within or adjacent to the authority. The election shall be called, conducted, and canvassed and notice thereof shall be given in accordance with the provisions of law governing the conduct of maintenance tax elections by the authority.

SECTION 7. The authority may, after approval by a majority of the qualified electors voting in an election called for the purpose, issue bonds or otherwise lend its credit in any amount for any or all of its purposes and may levy, assess, and collect ad valorem taxes in an amount sufficient to repay such bonds or other lending of credit. Any such election shall be called, conducted, and canvassed in the manner prescribed for bond elections of the authority.

SECTION 8. The authority may, after approval by a majority of the qualified electors voting in an election called for the purpose, levy, assess, and collect ad valorem taxes in an amount sufficient to maintain and operate the authority or its properties or to comply with any provision of its contracts. Any

such election shall be called, conducted, and canvassed in the manner prescribed for maintenance tax elections by the authority; provided, however, that such elections may be conducted on any date on which a bond election of the authority could have been conducted.

SECTION 9. Bonds issued by the authority to provide water, sanitary sewer, or drainage improvements or facilities shall continue to be subject to review and approval by the Texas Water Commission. Bonds issued by the authority for any other purpose shall be subject to review only by the Attorney General of Texas.

SECTION 10. The authority shall have the power to provide emergency medical services, including but not limited to ambulance and first-aid services, and shall have the power to construct, lease, purchase, or otherwise acquire, own, operate, use, maintain, or repair any and all real, personal, or mixed property or contract rights or any interest therein deemed necessary or appropriate to the provision of these services by the authority.

SECTION 11. The authority may establish any charges, deposits, stand-by fees, tap fees, assessments, or other source of revenue deemed necessary or appropriate by the authority for the provision or exercise of any of its powers or services.

SECTION 12. Dissolution of the authority. The provisions of Chapter 128, Acts of the 50th Legislature, Regular Session, 1947, Chapter 161, Acts of the 55th Legislature, Regular Session, 1957, Chapter 495, Acts of the 55th Legislature, Regular Session, 1957, and Chapter 228, Acts of the 56th Legislature, Regular Session, 1959, as amended (Articles 1182c-1 through 1182c-5, Vernon's Texas Civil Statutes), or other similar law hereafter enacted shall not apply to the authority, so long as it is performing services in accordance with a valid contract for the allocation of governmental services and the apportionment of ad valorem taxes between the authority and a home-rule city, town, or village in a county having a population in excess of 1,200,000, according to the last preceding or any future federal census, which contract calls for the exercise by the authority of fire-fighting, solid waste, parks and recreation, water, sewer, or drainage powers. The authority may be dissolved after the dissolution has received approval of a majority of the qualified electors voting in an election called for the purpose of determining whether to dissolve the district. The dissolution election may be called by the board of directors only after receipt by it of a petition requesting such an election signed by 25 percent of the qualified electors within the authority. Within 60 days after receipt of such a petition, the board of directors must adopt a plan by which all contractual obligations of the authority will be honored prior to or coincident with the dissolution of the authority. If the board of directors determines that no such plan is feasible, it shall reject the petition for the dissolution election. If the board of directors adopts such a plan, it shall call the dissolution election and give notice thereof in the manner provided for bond elections. The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of the authority." The election shall be conducted and canvassed in the manner prescribed for bond elections. If the dissolution of the authority is approved at the election, the board of directors shall implement the plan by which all contractual obligations of the authority are honored and shall proceed to dissolve the authority at the earliest practical time.

SECTION 13. Board of directors. Upon the entry of an order voted for by a majority of the membership of the board of directors of the authority, the board of directors of the authority may be enlarged to seven members. The election to fill such two additional positions shall be held in the following manner:

A. A special election shall be conducted on a day not less than 60 days after the entry of the order of the board of directors creating the additional two positions. The terms of the directors elected at the special election shall commence on the date of their election to and qualification as a director and shall expire as follows: (1) one term shall expire on the same date as that of the director(s) elected at the last regular directors' election; and (2) the other term shall expire on the same date as that of the director(s) elected at the next to last regular directors' election.

B. At the next regular directors' election, the positions of the directors whose terms regularly expire, together with the position of the additional director whose term expires on the same date, shall be filled by election of the voters of the authority. At the next following regular directors' election, the positions of the directors whose terms then regularly expire, together with the position of the additional director whose term expires on the same date, shall be filled by election of the voters of the authority.

C. Nothing herein shall be deemed to alter the qualifications or terms of office of the members of the governing body of the authority.

D. After the board of directors has been enlarged to seven members, the concurrence and signature of five directors shall be required for letting construction contracts and drawing warrants on the depository for payment of the contracts.

SECTION 14. The authority may adopt and enforce reasonable rules and regulations in regard to any or all services provided by it in the following manner:

A. The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the authority is located.

B. The substantive statement shall be condensed as far as possible to explain intelligently the purpose to be accomplished or the act forbidden by the rules.

C. The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules is on file in the principal office of the authority where it may be read by any interested person.

D. Any number of rules may be included in one notice.

E. After the required publication, rules adopted by the authority under Paragraph A of this section shall be recognized by the courts as if they were penal ordinances of a city.

F. The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rule shall be in effect and ignorance of it is not a defense to a prosecution for the enforcement of the penalty.

G. The board may set reasonable penalties for the breach of any rule of the authority which shall not exceed fines of more than $200 or imprisonment for more than 30 days or both for each day of each violation.

H. These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the authority's principal office is located.

SECTION 15. The authority shall have the power to issue refunding bonds in the manner set forth in Section 54.514, Texas Water Code, as added.

SECTION 16. The board may exclude territory from the boundaries of the authority and issue refunding bonds to be repaid in whole or in part from taxes upon the territory remaining within the boundaries, in the following manner:

A. Prior to commencing proceedings under this section, the board shall adopt an order expressing its intention to do so and setting a public hearing. Such order shall show the proposed redefined boundaries and a proposed financial plan for the issuance of refunding bonds.

B. Notice of such proceedings and of the public hearing shall be given by publishing the board's order once a week for two consecutive weeks in a newspaper of general circulation within the authority, the last such publication to be at least seven days prior to the public hearing. Additional notice shall be given by depositing copies of such order in a U.S. Postal Service mail box or receptacle (certified mail, return receipt requested) on or before the 20th day preceding such hearing, one such copy to be addressed to each of the following: (1) the governing body of each incorporated municipality (for purposes of this section being defined as a city, town, or village) located in whole or in part within the boundaries of the authority and (2) each person, firm, or corporation which owns property valued at $1 million or more on the last preceding tax roll of the authority, such copy to be sent to the address used for mailing tax statements to such person, firm, or corporation. The public hearing shall be conducted by the board, and all interested persons shall have the opportunity to be heard.

C. Following the public hearing, the board may adopt an order excluding territory and redefining the boundaries of the authority; provided, however, that such order shall not be effective (1) unless it is approved by ordinance duly adopted by the governing body of that municipality which is located in whole or in part within such redefined boundaries and which has the largest total population of any municipality so located, and (2) unless refunding bonds are delivered as hereinafter set out. Such redefined boundaries may not include any territory unless such territory is inside the boundaries or extraterritorial jurisdiction of a municipality which has entered into a contract with the authority as described in Section 1 of this Act. Such redefinition of boundaries must result in a single, contiguous area, which may not be enlarged thereafter by annexation or by any other means unless the municipality which has jurisdiction or extraterritorial jurisdiction over the land to be added grants its consent and approval by ordinance duly adopted. In no event may land be added to the authority unless it is contiguous to the authority.

D. Following the entry and approval of the order redefining the boundaries of the authority, as described in Subsection 16C above, the board may adopt an order calling an election to authorize the issuance of refunding bonds and the levy of ad valorem taxes to provide for the repayment of the bonds, said tax to be levied only upon taxable property within the territory to remain within the redefined boundaries; provided, however, that no such order calling an election shall be effective unless it is approved by ordinance duly adopted by the governing body of that municipality which is located in whole or in part within such redefined boundaries and which has the largest total population of any municipality so located. After approval by such municipality, the order may not be changed, unless approval of such change is obtained from such municipality. The order calling the election must include the proposition to be submitted, and prior to sale of any refunding bonds, the authority shall obtain approval from such municipality by ordinance duly adopted of the bond resolution or order authorizing the issuance of such refunding bonds. The election shall be called, conducted, and canvassed and notice thereof given in the manner prescribed for other bond elections of the authority, but it shall only be held within the proposed redefined boundaries or as required by law.

E. If the refunding bonds are approved at the election held within the redefined boundaries, if such bonds are approved by the attorney general, and if such bonds are delivered, the boundaries of the authority shall be redefined as set

out in the order mentioned in Subsection 16C above, effective as of the date of delivery, provided that the proceeds from such bonds are received and applied in the manner specified in the bond order.

F. The net effective interest rate on the refunding bonds of the authority shall be the same or lower than the net effective interest rate on the obligations refunded.

SECTION 17. Notwithstanding any contrary provision of the law, including but not limited to Section 12, Chapter 101, Acts of the 58th Legislature, Regular Session, 1963 (Article 8280-280, Vernon's Texas Civil Statutes), all bonds payable solely from the net revenues of the authority's operations or from the proceeds of any contract for the authority's service may be issued only after such bonds are authorized at an election held in the manner prescribed by the general laws pertaining to authorization of bonds to be issued by water control and improvement districts.

SECTION 18. The board of directors may determine that it is necessary or appropriate to meet any of the needs of the authority to issue negotiable tax anticipation notes to borrow the money needed by the authority. Tax anticipation notes may bear interest at any rate or rates not to exceed 10 percent and shall mature within one year of their date. Tax anticipation notes may be issued for any purpose for which the authority is authorized to levy taxes, and tax anticipation notes shall be secured with the proceeds of taxes theretofore levied or to be levied by the authority in the succeeding 12-month period. The board of directors may covenant with the purchasers of the notes that it will levy a sufficient tax in the following October to pay principal of and interest on the notes and pay the costs of collecting the taxes. Tax anticipation notes may be issued for any purpose for which taxes of the authority may have previously been voted or may be issued for the purpose of refunding previously issued tax anticipation notes.

SECTION 19. The authority may employ or otherwise engage any and all personnel deemed necessary or appropriate by the authority for the provision or exercise of any or all of its services and powers, including but not limited to administrators, park police, off-duty peace officers, engineers, attorneys, planners, independent contractors, or any other persons or entities. In addition, the board of directors may appoint such additional commissions as it deems appropriate to assist in the exercise of any of its functions.

SECTION 20. The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision.

SECTION 21. The legislature hereby expressly determines and finds that all of the property included within the boundaries of the authority or served by facilities to be owned or operated by the authority will be benefited by the works and projects to be accomplished by the authority, and the power hereby vested in the authority will serve a public purpose by conserving and reclaiming the natural resources of the State of Texas.

SECTION 22. This Act shall be liberally construed to effectuate its purpose, and its provisions shall be construed as cumulative of all other provisions of law relating to the subject matter.

SECTION 23. The legislature hereby finds and determines that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90

days prior to the introduction of this Act in the legislature in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation to such Act with the governor, lieutenant governor, and speaker of the house of representatives within 30 days from the date notice was received by the Texas Water Commission. The legislature further finds and determines that all requirements of Article XVI, Section 59, of the Constitution of the State of Texas have been met.

SECTION 24. No requirement to contract or forsake remedies. Nothing contained herein shall be construed to require the authority to enter into any contract with any city, town, or village or forgive or forsake any legal remedy or action or provide any service not instituted by contracts duly entered into in the regular course of business by the authority.

SECTION 25. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and that this Act take effect and be in force from and after the date of its passage, and said rules are hereby suspended, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1171 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 1171.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1168 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 1168.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1169 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 1169.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 909 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 909.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT SENATE BILL 139

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 139** have met and 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.

BROOKS
PRICE
CLOWER
TRUAN
BLAKE
On the part of the Senate

NABERS
DONALDSON
WRIGHT
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to payments for foster care for certain children ineligible for the aid to families with dependent children program and to the authority of the Texas Department of Human Resources in making such payments; providing for participation by counties.

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

SECTION 1. FOSTER CARE PAYMENTS. (a) The Texas Department of Human Resources may pay the cost of protective foster care for children:

(1) for whom the department has initiated a suit and has been named managing conservator by a court order issued under Article 15.02, Family Code, as amended; and

(2) who are ineligible for foster care payments under the department's aid to families with dependent children program.

(b) The department may not pay the cost of protective foster care for a child for whom the department has been named managing conservator by a court order issued solely under Article 15.02(1)(J), Family Code, as amended.

(c) Payments for protective foster care, including medical care, must be equal to payments made for similar care for a child who is eligible for the department's aid to families with dependent children program.

SECTION 2. COUNTY CONTRACTS. (a) The department may contract with a county commissioners court to administer the funds authorized by this Act for eligible children in the county and may require county participation.

(b) The payments provided by this Act do not abrogate the responsibility of a county to provide child welfare services.

SECTION 3. DIRECT PAYMENTS. The department may make direct payments for foster care to foster parents residing in a county with which the department does not have a contract authorized by Section 2 of this Act.

SECTION 4. PARENT OR GUARDIAN LIABILITY. The parent or guardian of a child is liable to the state or to the county for any payment made by the state or county for foster care of a child under this Act. The funds collected by the state under this section must be used by the department for child welfare services.

SECTION 5. MEDICAL SERVICES LIMITATION. The department may not provide the medical care payments authorized by Subsection (c) of Section 1 of this Act if:

(1) a federal law or regulation prohibits those medical payments unless medical payments are also provided for medically needy children who are not eligible for the department's aid to families with dependent children program and for whom the department is not named managing conservator; or

(2) the federal government does not fund at least 50 percent of the cost of the medical payments authorized by this Act.

SECTION 6. EFFECTIVE DATE. This Act takes effect September 1, 1979.

SECTION 7. APPROPRIATION. For foster care payments authorized by this Act there is appropriated to the Department of Human Resources out of general revenue funds the sum of $1,747,288 for the fiscal year ending August 31, 1980, and the sum of $2,507,608 for the fiscal year ending August 31, 1981, and there is appropriated out of earned federal funds the sum of $5,500,000 for the fiscal year ending August 31, 1981. For medical care payments authorized by this Act there is appropriated to the Department of Human Resources the sum of $182,270 ($106,355 out of federal funds and $75,915 out of the medical assistance fund) for the fiscal year ending August 31, 1980; $916,891 ($535,006 out of federal funds and $381,885 out of the medical assistance fund) for the fiscal year ending August 31, 1981. Unexpended balances appropriated for foster care payments and medical care payments for the fiscal year ending August 31, 1980, are appropriated to the Department of Human Resources for the same purposes for the fiscal year ending August 31, 1981.

SECTION 8. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 232 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 232.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Mengden and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1273.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1273 ADOPTED

Senator Mengden called from the President's table the Conference Committee Report on **S.B. 1273.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Mengden, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Doggett and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 124.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 124 ADOPTED

Senator Doggett called from the President's table the Conference Committee Report on **S.B. 124.** (The Conference Committee Report having been again filed with the Senate and read today.)

On motion of Senator Doggett, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Creighton, Meier, Moore, Price.

CONFERENCE COMMITTEE REPORT SENATE BILL 1155

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1155** have met and 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.

BROOKS
KOTHMANN
OGG
SCHWARTZ
WILLIAMS
On the part of the Senate

CARAWAY
GREEN OF HARRIS
WATSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to allocation of governmental services and a corresponding apportionment of ad valorem taxes between certain districts vested with powers under both Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution and certain cities; authorizing contracts between such districts and such cities with respect to common areas and with respect to such allocation and apportionment; containing provisions relating to apportionment of taxes, performance of services, changes in apportionment factors, approval and execution of contracts, voter approval of taxes, liability, and indemnity, equality and uniformity of taxes, fees, charges, and assessments, district rules and regulations, city responsibilities, and disannexation; providing that this Act shall be cumulative but that such districts and such cities shall be governed solely by this Act in certain respects; excluding certain areas from the application of this Act; containing findings and other provisions relating to the subject; and declaring an emergency.

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

SECTION 1. FINDINGS. The Legislature of the State of Texas finds that: (i) economy, efficiency, and equity in government require authority for an allocation of the responsibility for providing services between political subdivisions authorized to provide such services within the same area; (ii) cities, including home-rule cities, and other political subdivisions are best able to promulgate a detailed allocation of the responsibility for such services; (iii) local governments and political subdivisions need specific authorization to redistribute proportionately the ad valorem tax burden to match the allocation of responsibility for such services; and (iv) such redistribution and allocation of responsibility will enhance economy and efficiency of local government by eliminating duplicative services and will preserve equality and uniformity of taxation.

SECTION 2. PURPOSE. The purpose of this Act is to provide authorization for the allocation of governmental services and the corresponding apportionment of ad valorem taxes to reflect such allocations.

SECTION 3. DEFINITIONS. "District" shall mean any district vested with powers under both Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution, having express statutory authority to provide all of the allocable services hereinafter defined and being located in whole or in part within the boundaries of a city hereinafter defined.

"City" shall mean a city, town, or village in a county having a population in excess of 1,200,000, according to the last preceding or any future federal census.

"Common area" shall mean an area which is located within the boundaries of a city and within the boundaries of a district and which may be further defined in any contract entered pursuant to Section 4 of this Act.

"Allocable services" shall be functions or services which both a city and a district are lawfully authorized to provide within a common area and which may include the following: (i) fire fighting; (ii) construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes; (iii) solid waste collection, handling, storage, and disposal; (iv) parks and recreation; (v) waterworks system services; (vi) sanitary sewer system services; and (vii) storm sewer system and drainage facility services.

"Apportionment factor" shall be a percentage of the ad valorem taxes levied by a city against property located in a common area. The apportionment factor shall be defined in a contract authorized by Section 4 of this Act, but any apportionment factor shall be subject to change in the manner set out in Section 7 of this Act.

SECTION 4. AUTHORITY TO ENTER INTO CONTRACTS. A district and a city are hereby authorized to enter into contracts with respect to the provision of one or more allocable services in a common area. Any such contract shall contain: (i) a specific description of those allocable services to be performed by the district; (ii) a specific percentage of the city's ad valorem taxes attributable by the terms of such a contract to each of the services which are to be performed by the district; (iii) the sum of such percentages, which sum shall be the apportionment factor; (iv) an effective date; (v) a term, not to exceed 40 years; and (vi) a provision as to liability pursuant to Section 9 of this Act. Any such contract may contain findings relating to this Act, a definition of the common area, and provisions and procedures designed to implement the provisions of this Act or to promote cooperation between the district and the city. Any such contract may contain a provision for alternate apportionment factors to be used in the first year or in any partial year that such a contract is in effect. To be effective, any such contract must be approved and executed in accordance with the provisions of Section 8 of this Act.

SECTION 5. APPORTIONMENT OF TAXES. When a contract authorized by Section 4 of this Act is in effect, current ad valorem taxes levied upon each item of property within the common area shall be apportioned between the district and the city as set out in this section. Each taxpayer owning property within the common area shall pay to the district the full amount of ad valorem taxes levied by the district. Each such taxpayer shall pay to the city the full amount of the ad valorem taxes levied by the city, less the actual dollar amount of ad valorem taxes levied by the district and paid by such taxpayer to the district; provided, however, that the full amount of ad valorem taxes levied by the city against the property of such a taxpayer shall not be reduced by a dollar amount greater than the product of the then current apportionment factor multiplied by the ad valorem taxes levied by the city against the property of such taxpayer. The actual dollar amounts of current taxes shall be used for the

apportionment called for by this section. Interest and penalties, if any, shall not be used in the calculations called for by this section, but shall accrue to each taxing entity in proportion to the delinquent taxes due to that entity. In any legal proceedings brought to collect ad valorem taxes which are subject to apportionment under this section, if the defendant has not paid the full amount of taxes levied by the district, both the district and the city shall be necessary parties.

SECTION 6. PERFORMANCE OF SERVICES. Whenever one or more allocable services are to be provided by a district pursuant to a contract authorized by Section 4 of this Act, such services shall be at least generally equivalent to the same or similar services provided by the city to other areas within the city outside the common area having similar characteristics of topography, patterns of land utilization, and population density. Only the parties to a contract authorized by Section 4 of this Act may enforce the provisions of this section.

SECTION 7. CHANGES IN APPORTIONMENT FACTOR. When a contract authorized by Section 4 of this Act is in effect, if the city establishes by bond indenture or other contract a separate enterprise fund which segregates user fees received by the city sufficient to provide (within the city but outside the common area) one or more of the services which are allocated to the district within the common area, then the apportionment factor shall be reduced by the specific percentage specified in such contract attributable to such service. The city shall give notice to the district of the effective date and the nature of such change. Likewise, if the city disestablishes in whole or in substantial part any such enterprise fund (as, for example, by a defeasance of revenue bonds) so that such service is thereafter provided and financed in whole or in substantial part out of the general fund of the city, then the percentage specified in such contract attributable to such service (and, correspondingly, the apportionment factor) shall be increased in proportion to the increase in financing by the general fund of such city. The increase shall be calculated as a percentage equal to a fraction, the numerator of which is the projected expenditure by the city out of the general fund for such service for that year, and the denominator of which is the projected total of city ad valorem tax collections for that year. Such increased percentage must be specified in an amendment to the then existing contract.

SECTION 8. APPROVAL AND EXECUTION OF CONTRACTS. (a) To be effective as to a district, a contract authorized by this Act must be approved by the governing body of the district and must be executed by the presiding officer of such governing body, provided, however, that at least one of the propositions set forth in this section must first be approved by the requisite number of votes for passage at an election conducted by the district.

If the governing body orders an election on the question of authorizing a tax for construction, maintenance, and/or operation of macadamized, graveled, or paved roads and turnpikes ("road services" hereinafter), the governing body shall in the election order specify which road services are to be provided out of such tax and shall submit to the voters of the district the following proposition:

"Shall the levy of the proposed road services tax to provide for (the district's) obligations under a contract pursuant to (this Act) be authorized?"

If the governing body orders an election on the question of authorizing a tax for one or more allocable services other than road services ("general services" hereinafter), the governing body shall in the election order specify which of such general services are to be provided out of the proceeds of such tax and shall submit to the voters of the district the following proposition:

"Shall the levy of the proposed general services tax to provide for (the district's) obligations under a contract pursuant to (this Act) be authorized?"

The governing body may submit either or both propositions to the voters. If either proposition receives the requisite number of votes for passage, the governing body shall be authorized to approve a contract with respect to the services specified in the order calling the respective election.

No signature on behalf of a district other than that of the presiding officer of the governing body of a district shall be necessary on such a contract.

(b) To be effective as to a city, a contract authorized by this Act must be approved by an ordinance of its governing body and executed by the chief executive officer of such city. No further signature on behalf of the city shall be necessary on such a contract.

(c) The governing bodies of a district and a city may authorize amendments or supplements to a contract which is in effect, without the necessity of an election, if no increase is necessary in the level of ad valorem taxes authorized by the district's voters.

SECTION 9. LIABILITY. Whenever one or more allocable services are to be performed by a district pursuant to a contract authorized by Section 4 of this Act, the city shall never be held liable to the district or to any third party for any cost, expense, damage, or claim arising out of or in relation to any act or omission of the district or the officers, agents, or employees of the district, with respect to such service or services. As to such acts or omissions and as between the city and the district, the district shall have sole responsibility and shall fully indemnify the city and hold the city harmless from and against any such cost, expense, damage, or claim, whether such cost, expense, damage, or claim is asserted during or after the term of a contract authorized by this Act.

SECTION 10. EQUALITY AND UNIFORMITY REQUIRED. When a contract authorized by Section 4 of this Act is in effect, all taxes, user fees, charges, and assessments levied or collected by the district within the boundaries of the district shall be equal and uniform. No tax, user fee, charge, or assessment of the district shall be imposed, modified, or abated within the common area unless such imposition, modification, or abatement is made uniformly throughout the district.

SECTION 11. DISTRICT RULES AND REGULATIONS. The district, as it may be authorized by law, shall establish reasonable rules and regulations relating to the provision of services allocated to the district pursuant to a contract authorized by Section 4 of this Act.

SECTION 12. CITY RESPONSIBILITIES. All other city services not allocated to the district pursuant to a contract shall be the responsibility of the city.

SECTION 13. DUTY TO PROVIDE SERVICES. If a City enters into a contract pursuant to this Act, such City shall have discharged and fully satisfied, for the life of such contract, whatever statutory duties the City might otherwise have or incur to provide the services allocated to the district within the Common Area."

SECTION 14. CUMULATIVE PROVISION. This Act shall be cumulative of other legislation pertaining to the same or similar subjects; provided that districts and cities electing to enter into contracts pursuant to this Act shall be governed solely by the provisions of this Act insofar as such provisions extend any other statute, charter provision, or ordinance to the contrary notwithstanding.

SECTION 15. CERTAIN AREAS EXCLUDED. The provisions of this Act shall not apply to any area which contains 10 or more separate water and sewer utility systems constructed or caused to be constructed by 10 or more

separate water districts organized and existing under the provisions of Article XVI, Section 59, of the Texas Constitution.

SECTION 16. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE ON HOUSE BILL 1558

Senator Andujar called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1558** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1558** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Andujar, Chairman; Harris, Howard, Traeger and Creighton.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1170 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 1170.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 26, 1979.)

On motion of Senator Mauzy, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 662.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 662 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 662.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1071.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1071 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 1071.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

RECORD OF VOTE

Senator Traeger asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1069.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1069 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 1069.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

RECORD OF VOTE

Senator Traeger asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Short and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 284.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 284 ADOPTED

Senator Short called from the President's table the Conference Committee Report on **S.B. 284.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Short, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0.

Absent: Andujar, McKnight, Truan.

CONFERENCE COMMITTEE REPORT ON HOUSE CONCURRENT RESOLUTION 74

Senator Mengden called from the President's table the Conference Committee Report on **H.C.R. 74.** (The Conference Committee Report having been filed with the Senate and read today.)

Senator Mengden moved that the Senate adopt the Conference Committee Report on **H.C.R. 74.**

Senator Traeger made the substitute motion that the Conference Committee Report on **H.C.R. 74** be recommitted to the Conference Committee.

The substitute motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Price, Santiesteban, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Brooks, Harris, Jones of Harris, Mengden, Moore, Schwartz.

Absent: McKnight.

SENATE CONCURRENT RESOLUTION 104

Senator Schwartz offered the following resolution:

S.C.R. 104, Authorizing the Senate Enrolling Clerk to make certain changes in the Conference Committee Report on **S.B. 374.**

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 139.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 139 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 139.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brooks, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1155.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1155 ADOPTED

Senator Schwartz called from the President's table the Conference Committee Report on **S.B. 1155.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Schwartz, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Longoria, McKnight.

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 97 ON SECOND READING

On motion of Senator Mengden and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.J.R. 97, Proposing a constitutional amendment to grant the state the right of appeal in criminal cases from certain rulings of the trial court.

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

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 97 ON THIRD READING

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.J.R. 97** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Longoria, McKnight.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE RULE 96(h) SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1154.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1154 ADOPTED

Senator Schwartz called from the President's table the Conference Committee Report on **S.B. 1154.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Doggett and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 2142.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2142 ADOPTED

Senator Doggett called from the President's table the Conference Committee Report on **H.B. 2142.** (The Conference Committee Report having been filed with the Senate and read today.)

(Senator Jones of Harris in Chair)

On motion of Senator Doggett, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Longoria, McKnight.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 230 Declaring Rep. Keese and Kubiak to be co-fathers of gasohol in Texas

H.C.R. 232 Encouraging statewide cooperation with 1980 census

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1626

Senator Mauzy called from the President's table the Conference Committee Report on **H.B. 1626.** (The Conference Committee Report having been filed with the Senate and read today.)

Senator Mauzy moved that the Senate adopt the Conference Committee Report on **H.B. 1626.**

On motion of Senator Brooks and by unanimous consent, the Senate agreed to postpone consideration of the Conference Committee Report on **H.B. 1626** until 9:30 o'clock p.m. tonight.

Question - Shall the Conference Committee Report be adopted?

(President in Chair)

HOUSE BILL 454 ON SECOND READING

On motion of Senator Blake and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 454, Relating to longevity pay for certain state employees.

The bill was read second time.

Senator Blake offered the following amendment to the bill:

Amend **H.B. 454** by deleting Section 2 and substituting the following:

Sec. 2. For the fiscal year ending August 31, 1980, there is appropriated $12,200,000 from the General Revenue Fund and $7,500,000 from special funds to the Comptroller of Public Accounts; for the fiscal year ending August 31, 1981, there is appropriated $13,000,000 from the General Revenue Fund and $7,900,000 from special funds to the Comptroller of Public Accounts. The Comptroller of Public Accounts shall establish rules and procedures to administer this act within the amounts specified above.

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

HOUSE BILL 454 ON THIRD READING

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 454** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

The bill was read third time and was passed.

CONFERENCE COMMITTEE REPORT SENATE BILL 797

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 797** have met and 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.

HARRIS
OGG
ANDUJAR
BRAECKLEIN
HOWARD
On the part of the Senate

LANEY
BODE
CARY
EVANS
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to regulation of persons who practice public accountancy; providing penalties.

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

SECTION 1. POLICY AND PURPOSE. The practice of public accountancy is in all respects a learned profession having specialized educational and experience requirements. The terms "accountant" and "auditor" and the derivations, combinations, and abbreviations of those terms carry with them an implication of competence in the profession of public accountancy on which the public relies in personal, business, and public activities and enterprises. It is the policy of this state and the purpose of this Act that the admission of persons to practice public accountancy depends on education and experience commensurate with and required by the exigencies of the profession, that persons professing to practice public accountancy be qualified to do so, that the persons continue to maintain high standards of professional competence, integrity, and learning, that areas of specialized practice require special training, and that the activities and competitive practices of those practicing public accountancy be regulated to be free of commercial exploitation toward the end that the public will be provided with a high level of professional competence at reasonable fees by independent, qualified persons.

SECTION 1A. SHORT TITLE. This Act may be cited as the Public Accountancy Act of 1979.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board" means the Texas State Board of Public Accountancy.

(2) "Person" means an individual, partnership, or corporation.

(3) "State" includes any state, territory, or insular possession of the United States and the District of Columbia.

(4) "Corporation" means a professional public accounting corporation organized under The Texas Professional Corporation Act, as amended (Article 1528e, Vernon's Texas Civil Statutes), or an equivalent law of another state, territory, or foreign country.

(5) "Financial statement" means a statement and related footnotes that purport to show financial position at a specified time or changes in financial position during a specified period of time, including a statement that uses the cash or other incomplete basis of accounting. The term includes a balance sheet, statement of income, statement of retained earnings, statement of changes in financial position, and statement of changes in owners' equity or any combination thereof, but does not include incidental financial data included in a management advisory or consulting services report to support recommendations to a client, nor does it include a tax return and supporting schedules.

SECTION 3. ACTS NOT RESTRICTED. (a) Nothing contained in this Act shall be construed as applying to restrict any official act of any county auditor or other officer of the state, county, municipality, or other political subdivision or any officer of a federal department or agency or of their assistants, deputies, or employees while working in their official capacities.

(b) Nothing contained in this Act shall prohibit any person not a certified public accountant or public accountant from serving as an employee of a certified public accountant or public accountant, partnership, or corporation composed of certified public accountants and/or public accountants holding a license or licenses to practice issued by the board; provided, however, that such employee shall not issue any accounting or financial statement over his own name.

(c) Nothing contained in this Act shall prohibit a certified public accountant or a registered public accountant of another state or any accountant who holds a certificate, degree, or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; provided that such temporary practice is conducted in conformity with the laws of Texas and the regulations and rules of professional conduct promulgated by the board. The person coming into this state shall notify the board of his incidental, temporary practice in the state and shall pay to the board a fee set by the board, not to exceed $10.

SECTION 4. STATE BOARD OF PUBLIC ACCOUNTANCY. (a) The Texas State Board of Public Accountancy shall consist of 12 members, each of whom shall be a citizen of the United States and a resident of this state. Members of the board and their successors shall be appointed by the governor with the advice and consent of the senate. At least seven members shall be certified public accountants in public practice. Two members shall be certified public accountants or public accountants in public practice. The remaining three members shall be public representatives who are not licensed under this Act and who are not financially involved in an organization subject to regulation by the board. The term of office of each member of the board shall be six years and each member shall continue until a successor is appointed. Members of the present board shall continue in office until their respective terms have expired or until their successors have been appointed.

(b) A member of the board may not be an officer, employee, or paid consultant of a trade association of the public accountancy profession.

(c) A member or employee of the board may not be related within the second degree of affinity or within the second degree of consanguinity to a person who is an officer, employee, or paid consultant of a trade association of the profession of public accountancy.

(d) A board member who has served as a member for six consecutive years shall not be eligible for reappointment until two years shall have elapsed between the end of the term of his last prior appointment and the beginning of the term of a new appointment.

(e) Each member of the board is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the board and to $50 for each day on which the member attends an official meeting of the board or assists in the administration of an examination under this Act.

(f) Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(g) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

(h) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as a general counsel to the board or serve as a member of the board.

SECTION 5. POWERS AND DUTIES OF BOARD. (a) The board shall administer and carry out this Act and shall:

(1) elect from its members a chairman, secretary, treasurer, and other officers as the board considers necessary;

(2) keep records of all proceedings and actions by and before the board;

(3) keep a seal which shall be judicially noticed; and

(4) employ personnel and independent contractors necessary to assist it in the performance of its duties.

(b) A majority of the board constitutes a quorum for the transaction of business. The members of the board who are not certified public accountants have all the authority, responsibility, and duties of any other member of the board.

(c) The board shall keep an information file about each complaint filed with the board. If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly and until the complaint is finally disposed of, shall notify the complainant of the status of the complaint.

SECTION 6. RULEMAKING. (a) The board shall promulgate rules deemed necessary or advisable to effectuate this Act, including the promulgation of rules of professional conduct in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to insure that the conduct and competitive practices of licensees serve the purposes of this Act and the best interest of the public. The board in its rules of professional conduct shall not restrict advertising or competitive bidding by licensees except if necessary to:

(1) insure that advertising, price information, and other communications from licensees are informative, free of deception, and consistent with the professionalism expected and deserved by the public from those engaged in the practice of public accountancy;

(2) insure that the conduct and dealings of licensees are free from fraud, undue influence, deception, intimidation, overreaching, harassment, and other forms of vexatious conduct, including uninvited solicitations to perform professional accounting services; provided, however, that the term "uninvited solicitation" shall not be deemed to include advertising in print, radio, motion pictures, and television media; or

(3) regulate the competitive practices of licensees to the extent necessary to insure that:

(A) contracts or engagements between a licensee and any state agency, political subdivision, county, municipality, district, authority, or publicly owned utility for the performance of professional accounting services are not solicited or

awarded on the basis of competitive bids submitted for such contracts or engagements in violation of law;

(B) contracts or engagements for the preparation of or opinion on any financial statement which is or can be used by or given to a person or entity not a party to the contract or engagement for the purpose of inducing reliance thereon are not entered into on the basis of competitive bids; this paragraph shall not apply to any tax or consulting services; further, this paragraph shall not apply to any accounting services or any contracts or engagements for or opinion on any financial statement of any sole proprietorship, partnership, or corporation whose sales or other revenues did not exceed $300,000 for the latest complete fiscal year; however, the $300,000 amount provided in this paragraph shall be adjusted proportionately upward or downward on the first day of each calendar year according to changes from January 1, 1979, in the Consumer Price Index for all Urban Consumers published by the United States Department of Labor; or

(C) no licensee engages in any competitive practice which would impair the independence of or quality of services rendered by any licensee or which would impair or restrict the opportunity for members of the public to seek and secure high quality professional accounting services at reasonable prices or which would unreasonably restrict competition among licensees.

The board may adopt a system of required annual continuing education for licensees to assure that the licensees remain informed of changes in the field of accountancy. The board may recognize areas of specialization in the field of accountancy and may recognize alternate ways by which licensees may demonstrate acceptable levels of competency.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

SECTION 7. EXPENSES OF BOARD. (a) The fees and other money received by the board under this Act shall be deposited in the state treasury to the credit of a special fund to be known as the public accountancy fund and may be used only for the administration of this Act.

(b) The board shall file an annual report of its activities with the governor and the Legislative Budget Board. The report shall include a summary statement of all receipts and disbursements of the board for each calendar year. The board's funds shall be audited each fiscal year by the state auditor.

SECTION 8. PROHIBITION AGAINST PRACTICING WITHOUT LICENSE. (a) No person shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under this or prior Acts, holds a license issued under Section 9 of this Act which is not revoked or suspended, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 of this Act; provided, however, that an accountant of another state or foreign country who has registered under the provisions of this or prior Acts and who holds a license issued under Section 9 of this Act may use the title under which he is generally known in his state or country followed by the name of the state or country from which he received his certificate, license, or degree.

(b) No partnership or corporation shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or corporation is composed of certified public accountants unless such partnership or corporation is registered as a partnership or corporation of certified public accountants under this or prior Acts, holds a license issued under Section 9 of this Act, and all of such partnership's or corporation's offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act.

(c) No person shall assume or use the title or designation "Public Accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under this or prior Acts, holds a license issued under Section 9 of this Act, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 of this Act or unless such person has received a certificate as a certified public accountant under this or prior Acts, holds a license issued under Section 9 of this Act, and all of such person's offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act.

(d) No partnership or corporation shall assume or use the title or designation "Public Accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or corporation is composed of public accountants, unless such partnership or corporation is registered as a partnership or corporation of public accountants under this or prior Acts or as a partnership or corporation of certified public accountants under this or prior Acts, holds a license issued under Section 9 of this Act, and all of such partnership's or corporation's offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act.

(e) No person shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations, "CA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA"; provided, however, that only a person holding a license issued under Section 9 of this Act and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act may hold himself out to the public as an "accountant" or "auditor" or any combination of said terms; and provided further that a foreign accountant registered under this or prior Acts who holds a license issued under Section 9 of this Act and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license, or degree.

(f) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is an accountant or auditor or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement, unless he has complied with the applicable provisions of this Act; provided, however, that the provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his

signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he holds in such organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

(g) No licensee shall assume or use a name which is misleading in any way as to the legal form of the firm or as to the persons who are partners, officers, or shareholders of the firm. The name or designation any partnership or corporation may assume or use shall contain the personal name or names of one or more individuals presently or previously members thereof, and the name or designation any individual may assume or use shall contain his name. No trade name or descriptive words indicating character or grade of service offered may be used or included except as authorized by rules promulgated by the board.

(h) No licensee shall assume or use the designation "and Company" or "and Associates" or abbreviations thereof in designating a firm in the practice of public accountancy unless there are at least two persons holding licenses under this Act involved in the practice of the firm.

SECTION 9. ANNUAL LICENSES TO PRACTICE. (a) Licenses shall be issued by the board to the following upon the payment of fees hereinafter specified:

(1) holders of the certificate of "Certified Public Accountant" issued under this or prior Acts; and

(2) such persons as are registered with the board under the provisions of this or prior Acts.

There shall be paid to the Texas State Board of Public Accountancy by all persons referred to in Subdivisions (1) and (2) of this subsection an annual license fee not to exceed $60. All licenses shall expire on the 31st day of December of each year or on such other date or dates as set by the board pursuant to Subsection (b) of this section, but shall annually be renewed for a period of one year upon the payment of a fee of not more than $60, the board being hereby given the authority and duty to determine the amount of such renewal fee not less than 30 days prior to the beginning of the year to which it applies and to mail notices thereof each year by that date.

Failure of any licensee to pay the annual license renewal fee on or before the date it is due shall automatically cancel his license. Any licensee whose license shall have been canceled because of failure to pay the annual license renewal fee may secure reinstatement of his license at any time within that license year upon payment of the delinquent fee together with a penalty of $20. After expiration of the license year for which the license fee was not paid, no license shall be reinstated except upon application and examination satisfactory to the board and payment of delinquent fees and a penalty to be assessed by the board. The board shall have no authority to waive the collection of any fee or penalty.

(b) The board by rule may adopt a system under which licenses expire on various dates during the year. Dates relating to cancellation and reinstatement of licenses shall be adjusted accordingly. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee shall be payable.

SECTION 10. REGISTRATION WITH THE BOARD. The following persons shall be registered with the board for the practice of public accountancy in this state:

(1) all individuals qualified under this or prior Acts;

(2) partnerships qualified under this or prior Acts;

(3) corporations qualified under this or prior Acts; and

(4) each office established or maintained in this state for the practice of public accountancy in this state by a certified public accountant or partnership or corporation of certified public accountants or by a public accountant or a partnership or corporation of public accountants or by an individual registered under Section 14 of this Act, but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal or a staff employee holding a license issued by the board which is in full force and effect; provided that the title or designation "Certified Public Accountant" or the abbreviation "CPA" shall not be used in connection with such office unless such resident manager is the holder of a certificate as a certified public accountant and a license issued by the board, both of which are in full force and effect. Such resident manager may serve in such capacity only in one office at the same time except as authorized by rule of the board. The board shall by regulation prescribe the procedure to be followed in effecting such registrations. There shall at all times be prominently displayed in each office registered under the provisions of this section, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the Texas State Board of Public Accountancy and which shall contain a statement informing consumers that complaints can be directed to the board.

All applicants for registration shall furnish satisfactory evidence of eligibility for registration. The board shall have power to examine such applications and may refuse registration to any applicant who is unable to meet the standards imposed by this Act.

SECTION 11. RULES AND REQUIREMENTS APPLICABLE TO PARTNERSHIPS AND CORPORATIONS. (a) All rules and statutory requirements applying to partnerships apply to corporations. All rules and statutory requirements applying to partners of partnerships apply to incorporators, stockholders, officers, and directors of corporations. All rules and statutory requirements governing employees or agents of partnerships apply to employees or agents of corporations.

(b) All rules and statutory requirements applying to partnerships apply to the partners of the partnership. Rules and statutory requirements applying to corporations apply to incorporators, stockholders, officers, and directors of corporations.

SECTION 12. CERTIFICATION OF CERTIFIED PUBLIC ACCOUNTANTS. The certificate of a "Certified Public Accountant" shall be granted by the board to any person:

(1) who is a citizen of the United States or who, if not a citizen, has lived in the State of Texas for the 90 days immediately preceding the date of submitting to the board the initial application to take the written examination conducted by the board for the purpose of granting a certificate of "Certified Public Accountant" or has maintained permanent legal residence in Texas for the six months immediately preceding the date of submission;

(2) who shall have qualified to take the examination for the certificate in this state;

(3) who has attained the age of 18 years;

(4) who is of good moral character;

(5) who meets the requirements of education and experience as hereinafter provided:

(A) the experience requirements shall be for the number of years as provided in Paragraph (B) or (C) below and shall be in public practice under the

supervision of a certified public accountant or public accountant or in an activity comparable thereto or in any combination of such types of experience in work of a nonroutine accounting nature which continually requires independent thought and judgment on important accounting matters; and all such experience must be satisfactory to the board;

(B) the education requirement shall be either (i) a baccalaureate degree conferred by a college or university recognized by the board, with a major in accounting, or with a nonaccounting major, supplemented by what the board determines to be substantially the equivalent of an accounting major, with not less than 30 semester hours of accounting and 20 additional semester hours of related courses in other areas of business administration; and the experience requirement shall be two years of the experience described in Paragraph (A) above; or (ii) graduation from an accredited high school, plus two years of study of accounting or related subjects including at least 20 semester hours of accounting in one or more colleges or universities recognized by the board, plus six years of experience under the supervision of a certified public accountant in work described in Paragraph (A) above, in which event such certified public accountant or certified public accountants, if the applicant has been employed by more than one, shall certify to the board that the applicant has had during such six-year period the experience described in Paragraph (A) above; and

(C) the experience requirement shall be only one year of the experience described in Paragraph (A) above for any candidate holding a master's degree in accounting or business administration from a college or university recognized by the board or holding a professional degree in accounting with a minimum of 30 semester hours in accounting designated other than as a master's degree but judged by the board to be equivalent to that degree and to be at an appropriate professional level, if the candidate has satisfactorily completed at least 30 semester hours in accounting and 20 semester hours in other areas of business administration and such related subjects as the board shall determine to be appropriate; and

(6) who shall have passed a written examination in theory of accounts, accounting practice, auditing, commercial law affecting public accounting, and such other related subjects as the board shall determine to be appropriate. A grade of at least 75 percent on each subject shall be required as a passing grade.

Any candidate who meets the education requirements under Paragraph (B) or (C) of Subdivision (5) above and who is duly enrolled as an attorney by the Supreme Court of Texas shall be given credit for commercial law without taking the written examination on commercial law.

The board may by written regulations provide for granting credit to a candidate for his satisfactory completion of a written examination in any of the subjects specified in Subdivision (6) above given by the licensing authority in any other state. Such regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any such credit shall in the judgment of the board be at least as thorough as the most recent examination given by the board at the time of granting such credit.

None of the education or experience requirements specified above shall apply to a candidate who is registered as a public accountant under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), and holds a license issued under this Act.

A candidate who has met the education requirements shall be eligible to take the examination in all subjects without waiting until he meets the experience requirements; provided that the candidate also meets the requirements of Subdivisions (1), (2), (3), and (4) of this section.

A candidate for the certificate of certified public accountant who has successfully completed the examination under Subdivision (6) above shall have no status as a certified public accountant, unless and until the candidate has the requisite experience and has received notice of certification as a certified public accountant.

The holder of a certificate heretofore issued under the provisions of prior Acts shall not be required to secure a new certificate as a certified public accountant under this Act.

The applicable education and experience requirements under this Act shall be those in effect on the date of the candidate's application for the examination or reexamination by which the candidate successfully completes the examination. Any person qualified to sit under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), shall continue to qualify to sit for the examination as long as the initial qualifications are met.

Any person who at the effective date of this Act has entered a program to meet the education and experience requirements of The Public Accountancy Act of 1945, as amended and as in force immediately prior to the effective date of this Act, shall file with the board within 180 days after the effective date of this Act a written declaration thereof and submit such proof thereof as the board may require. After the filing of such declaration and proof under rules and regulations prescribed by the board, a person shall be allowed the time reasonably required to complete his program to meet the education requirements in force immediately prior to the effective date of this Act, but no more than four years following the effective date of this Act to meet such education requirements in force immediately prior to the effective date of this Act. Upon completion of such requirements, if otherwise qualified to take the examination, he shall be permitted to make his application and take the examination under such education requirements.

Every person who has met the requirements of Subdivisions (1), (2), (3), (4), (5), and (6) of this section and is ready to receive his certificate as a "Certified Public Accountant" shall before receiving such certificate take an oath that he will support the Constitution of the United States and of this state and the laws thereof and will comply with the rules of professional conduct promulgated under this Act. This oath shall be administered by a member of the board or by such other person as may be authorized by law to administer oaths.

SECTION 13. RECIPROCITY. The board may in its discretion waive the examination of and may issue a certificate of "Certified Public Accountant" to any person possessing the other qualifications mentioned in Section 12 of this Act who is the holder of a certificate as certified public accountant issued under the laws of any state or territory or the equivalent thereof issued in any foreign country, provided the requirements for such certificate in the state or territory or foreign country which has granted it to the applicant were in the opinion of the board at least equivalent to those required in this state at the time the applicant's original certificate was issued. The board shall charge for the issuance of such a certificate as a "Certified Public Accountant" under this section a fee of not more than $100.

SECTION 14. REGISTRATION OF CERTIFIED PUBLIC ACCOUNTANTS OF OTHER STATES AND PERSONS HOLDING SIMILAR TITLES IN FOREIGN COUNTRIES. A certified public accountant of another state or territory or the holder of a certificate, license, or degree authorizing him to practice public accountancy in a foreign country may register with the board as a certified public accountant of such other state or territory or as holding such certificate, license, or degree of a foreign country, if the board determines that the standards under which the applicant became a certified public accountant or

received such certificate, license, or degree were as high as the standards of this state at the same time for granting the certificate of certified public accountant. A person so registered may describe himself as a certified public accountant of the state or territory which issued his certificate or may use the title held by him in a foreign country; provided that the country of its origin is indicated. The registered person must pay the license fee provided in Section 9 of this Act and a processing fee set by the board of not more than $100.

SECTION 15. EXAMINATIONS, REEXAMINATIONS, AND FEES. All examinations provided for under this Act shall be conducted by the board. The examination for the certificate of "Certified Public Accountant" shall take place as often as the board deems necessary, but not less frequently than once each year. The board as it considers appropriate may use all or part of the Uniform CPA Examination and any related service available from the American Institute of Certified Public Accountants or the National Association of State Boards of Accountancy.

Not later than the 30th day after the day on which the board receives a person's examination results, the board shall send to the person the examination results.

A candidate who fails shall have the right to apply for additional examinations, subject to the satisfaction of the board that the candidate continues to meet requirements of Subdivisions (1), (2), and (4) of Section 12 of this Act.

Any candidate who at the time of filing his application to take the examination or reexamination provided for herein had prior to the effective date of this Act any examination credits or who after the effective date of this Act shall pass in a single examination of two or more subjects (accounting practice counting as two subjects), or who is registered as a public accountant under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), and who shall pass one or more subjects after the effective date of this Act shall have the right, subject to the approval of his application for reexamination under the provisions of the preceding paragraph, to be reexamined in the remaining subjects only at subsequent examinations held by the board, except that the candidate must pass the remaining subjects within the next 10 consecutive examinations, and the candidate may receive credit for one or more subjects in any subsequent examination. When the candidate shall have received credit for all subjects, the candidate shall then be considered to have passed the examination. A candidate having two or more credits on September 1, 1979, is entitled to an unlimited number of reexaminations on the remaining parts of the examination.

The board shall charge for the first examination of a candidate for certification as a "Certified Public Accountant" a fee of not more than $150, which shall be payable by the applicant at the time of making the initial application. For each subsequent examination or reexamination, the fee shall not exceed for each subject for which the candidate is eligible $60 for accounting practice and $30 for each of theory of accounts, auditing, and commercial law, which shall be payable by the applicant at the time of making the application for the subsequent examination or reexamination. Where the applicant fails to be present for the examination and shows to the board satisfactory reason for such failure, the board may in its discretion refund any fee so paid.

All fees provided for herein shall be paid to the Texas State Board of Public Accountancy.

It is further provided that any applicant who has failed any such examination or reexaminations shall have a right to request a copy of the questions and the answers thereto made by him upon any such examination with

the grade clearly shown, together with a copy of solutions to such questions; and the board shall forthwith comply with such request by delivering by registered or certified mail to such applicant a true copy of the questions and his answers thereto, together with a copy of solutions to such questions. The board may charge such applicant a reasonable fee therefor, and such request by the candidate shall be made within six months after the grades are mailed to said candidate and not thereafter.

SECTION 16. USE OF DESIGNATION "CERTIFIED PUBLIC ACCOUNTANT." Any person who has received from the board a certificate of "Certified Public Accountant" and holds a license to practice shall be styled and known as a "Certified Public Accountant" and may also use the abbreviation "CPA."

SECTION 17. USE OF DESIGNATION "CERTIFIED PUBLIC ACCOUNTANT" BY PARTNERSHIPS. A partnership engaged in this state in the practice of public accountancy may register with the board as a partnership of certified public accountants provided it meets the following requirements:

(1) at least one general partner must be a certified public accountant of this state in good standing;

(2) each partner thereof personally engaged within this state in the practice of public accountancy as a member must be a certified public accountant in this state in good standing;

(3) each partner must be a certified public accountant of some state in good standing; and

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing. Such affidavit must set forth the partnership name, the post office address within the state, and the address of the principal office wherever located, together with the name, residence, and post office address of each general partner. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a license issued under Section 9 of this Act may use the words "Certified Public Accountants" or the abbreviation "CPAs" in connection with its partnership name. Notification shall be given the board within one month after the admission or withdrawal of a partner to or from any partnership so registered.

SECTION 18. USE OF DESIGNATION "PUBLIC ACCOUNTANT." Any individual qualified under this Act to register with the board for the practice of public accountancy and who has so registered and who holds a license for the practice of public accountancy may be styled and known as a "Public Accountant."

SECTION 19. USE OF DESIGNATION "PUBLIC ACCOUNTANT" BY PARTNERSHIPS. A partnership engaged in this state in the practice of public accountancy may register with the board as a partnership of public accountants provided it meets the following requirements:

(1) at least one general partner must be a certified public accountant or a public accountant of this state in good standing;

(2) each partner personally engaged within this state in the practice of public accountancy as a member must be a certified public accountant or a public accountant of this state in good standing;

(3) each partner must be a certified public accountant or a public accountant of some state in good standing; and

(4) each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a license to practice in this state as a certified public accountant or as a public accountant. Such affidavit must set forth the partnership name, the post office address within the state, and the address of the principal office of the partnership wherever it is located, together with the name, residence, and post office address of each general partner of the partnership. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership license issued under Section 9 of this Act may use the words "Public Accountants" in connection with its partnership name. Notification shall be given the board within one month after the admission or withdrawal of a partner to or from any partnership so registered.

SECTION 20. PRACTICE OF PUBLIC ACCOUNTANCY BY CORPORATIONS. A corporation authorized to engage in the practice of public accountancy in this state may register with the board as a corporation engaged in the practice of public accountancy. Application for such registration must be made upon the affidavit of an officer of such corporation. The affidavit must set out the corporate name, the post office address within the state, and the address of the principal office of the corporation. The board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a license issued under this Act may practice public accountancy under a corporate name indicating that it is engaged in such practice. Licensing provisions and procedures applicable to partnerships under Sections 17 and 19 of this Act are also applicable to corporations.

SECTION 21. REVOCATION OR SUSPENSION OF CERTIFICATE OR LICENSE. (a) After notice and hearing as provided in Section 22 of this Act, the board may revoke or may suspend for a period not to exceed five years any certificate issued under this or any prior Acts or any registration granted under this or any prior Acts or may revoke, suspend, or refuse to renew any license issued under Sections 9 or 13 of this Act or may reprimand the holder of any such license for any one or more of the following causes:

(1) fraud or deceit in obtaining a certificate as certified public accountant or in obtaining registration under this or any prior Acts or in obtaining a license to practice public accountancy under this Act;

(2) dishonesty, fraud, or gross negligence in the practice of public accountancy;

(3) violation of any of the provisions of Section 8 of this Act;

(4) violation of a rule of professional conduct promulgated by the board under the authority granted by law;

(5) final conviction of a felony under the laws of any state or of the United States;

(6) final conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States;

(7) cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any cause other than failure to pay an annual registration fee in such other states;

(8) suspension or revocation of the right to practice before any state or federal agency for a cause which in the opinion of the board warrants its action;

(9) failure of a certificate holder or registrant to obtain an annual license under Section 9 of this Act within either (A) three years from the expiration

date of the license to practice last obtained or renewed by said certificate holder or registrant or (B) three years from the date upon which the certificate holder or registrant was granted his certificate or registration, if no license was ever issued to him, unless such failure shall be excused by the board pursuant to the provisions of Section 9 of this Act; or

(10) conduct indicating lack of fitness to serve the public as a professional accountant.

(b) Upon conviction by any court of original jurisdiction of a felony under the laws of any state or of the United States or of any crime, an element of which is dishonesty or fraud, under the laws of any state or the United States and after notice and hearing as provided in Section 22 of this Act, the board may suspend any certificate issued under this or prior Acts, any registration granted under this or prior Acts, or may suspend or refuse to renew any license issued under this Act for the period between the date of such conviction and the date such conviction becomes final or set aside. If such conviction becomes final whether by passage of time, exhaustion of appeal, or otherwise, the board may without further notice and hearing take any action authorized in Subsection (a) of this section. If such conviction is reversed, set aside, or modified so that it no longer constitutes a conviction of a felony or of a crime of which an element is dishonesty or fraud, the board shall reinstate any license, registration, or certificate suspended under this subsection; provided, however, that such reinstatement shall be without prejudice to the rights of the board to invoke any other applicable provisions of this section.

(c) After notice and hearing as provided in Section 22 of this Act, the board shall revoke the registration and license to practice of a partnership or corporation which does not meet all the qualifications for registration prescribed by this Act.

After notice and hearing as provided in Section 22 of this Act, the board may revoke or suspend the registration of a partnership or corporation or may revoke, suspend, or refuse to renew its license under Section 9 of this Act to practice or may reprimand the holder of any such license for any of the causes enumerated in Subsection (a) of this section or for any of the following additional causes:

(1) the revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the license to practice of any partner or shareholder;

(2) the cancellation, revocation, suspension, or refusal to renew the authority of the partnership or corporation or any partner or shareholder thereof to practice public accountancy in any other state for any cause other than failure to pay an annual registration fee in such other state; or

(3) the suspension or revocation of the right of any partner or shareholder to practice before any state or federal agency for a cause which in the opinion of the board warrants its action.

SECTION 22. HEARING AND REVIEW PROCEDURE. (a) The board may initiate proceedings under this Act either on its own motion or on the complaint of any person.

(b) A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than 20 days prior to the date of said hearing either personally or by mailing a copy thereof by registered or certified mail to the last known address of the accused.

(c) At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence as may be produced against him. The accused shall be

entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(d) The board or any member thereof may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony, hear proofs, and receive exhibits in evidence in connection with or upon hearings under this Act. In cases of disobedience to a subpoena, the board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(e) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing, the board may proceed to hear evidence against him and may enter such order as shall be justified by the evidence, and a copy of such order shall be mailed by registered or certified mail to the last known address of the accused. The board is hereby authorized to grant continuances upon written request and upon a showing of good cause for failure to appear at such hearing, set out in writing, signed by the accused, and filed with the board. The board may reopen said proceedings and permit the accused to submit evidence in his behalf; provided further that said written request to reopen is filed with the board within 20 days after the date a copy of said order has been mailed to the accused.

(f) A stenographic record of the hearings shall be kept, and if deemed necessary by the board, a transcript shall be ordered.

(g) At all hearings the attorney general or one of his assistants or such other legal counsel as may be employed shall appear and represent the board.

(h) The decision of the board shall be by majority vote.

(i)(1) Any person, firm, or corporation aggrieved by any order, ruling, or decision of the board may file a motion for rehearing. Such a motion must be filed within 15 days of the rendition of the order, ruling, or decision complained of. Replies to motions for rehearings must be filed within 25 days after the rendition of the order, ruling, or decision. Unless the board has acted upon a motion for rehearing within 45 days from the time it is filed, the motion shall be overruled as a matter of law. The board may extend the time for filing of motions for rehearings and replies, but in no event shall the board extend the period within which it may act to more than 90 days from the date of rendition of the order, ruling, or decision. Any motion for rehearing pending after the expiration of 90 days from the date of rendition of the order, ruling, or decision complained of shall be overruled as a matter of law.

(2) An order, ruling, or decision is final and appealable when the motion for rehearing is overruled or when the time for filing a motion has expired and no motion has been filed.

(3) Any party aggrieved by a final order, ruling, or decision of the board shall be entitled to judicial review under the substantial evidence rule. Proceedings for review shall be initiated by the filing of a petition in the District Court of Travis County, Texas, setting forth the particular objection to such decision, ruling, or order against the Texas State Board of Public Accountancy as defendant, such petition to be filed within 30 days after the decision, ruling, or order complained of is final and appealable. Service of citation on the board may be had by delivery of a copy of the petition to the board at its offices in Austin, Travis County, Texas. The board shall not be required to give any bond in any cause or appeal arising hereunder. Neither the board nor any member thereof shall be liable to any person, firm, or corporation charged or investigated by the board for any damages incident to such investigation or any complaint, charge, prosecution, proceeding, or trial of the results thereof.

(j) Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked or may permit the reregistration of anyone whose registration has been revoked or may reissue or modify the suspension of any license to practice public accountancy which has been revoked or suspended.

SECTION 23. PENALTIES. (a) Whenever in the judgment of the board any person who is not the holder of a license to practice public accountancy in this state has engaged in any act or practices which constitute the practice of public accountancy within this state, the board may apply to the district court of the county in which such person resides or has an office to enjoin such person from engaging in the practice of public accountancy, and in such cases the board shall not be required to give bond as a condition precedent to the issuance of such injunctive relief.

(b) Any person who violates any provision of The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), or of this Act shall be deemed guilty of a Class B misdemeanor and each violation shall constitute a separate offense. Any complaints filed under the provisions of this section shall be filed in the county where the offense occurred.

SECTION 24. ADVISORY COMMITTEES. (a) The board may appoint advisory committees composed of individuals who are not members of the board. An advisory committee shall perform the advisory functions assigned to it by the board.

(b) A member of an advisory committee serves without compensation and is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the committee.

(c) A member of an advisory committee serves at the will of the board.

SECTION 25. CONFIDENTIALITY OF CERTAIN BOARD FILES. Any file maintained or information gathered or received by the board concerning a candidate, licensee, or former licensee shall be available for inspection by that candidate, licensee, or former licensee during normal business hours at the offices of the board in Austin. A candidate, licensee, or former licensee may by written communication authorize the board to make any information about that candidate, licensee, or former licensee available for inspection by designated persons or available for inspection by the public at large. Except upon such written authorization, all information received or gathered by the board concerning the qualifications of any licensee or candidate to register as a public accountant or to receive a certificate as a certified public accountant and all information received or gathered by the board concerning a disciplinary proceeding against a licensee under Section 22 of this Act prior to a public hearing on the matter shall be confidential and shall not be subject to disclosure under Chapter 424, Acts of the 63rd Legislature, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

SECTION 26. CLIENT-ACCOUNTANT COMMUNICATIONS. (a) Except by permission of the client or person or entity engaging him or the heirs, successors, or personal representatives of such client or person or entity, a certified public accountant, public accountant, partnership, or corporation holding a license to practice under this Act shall not be required to disclose or divulge information which has come into his possession relative to or in connection with any professional services as a certified public accountant, public accountant, partnership, or corporation. Any information derived from or as the result of such professional services shall be deemed confidential and privileged. However, this section shall not apply to information related to the methods or procedures used in: (1) the preparation of a "financial statement"; (2) management advisory or consulting services; or (3) tax returns and supporting schedules.

(b) No information shall be deemed privileged from disclosure in:

(1) an action against a licensee by the client or entity engaging the licensee;

(2) any disciplinary investigation or proceeding conducted under or pursuant to this Act; or

(3) any criminal investigation or proceeding.

(c) No documentary information, books or records shall be deemed privileged from examination by the Comptroller of Public Accounts or any agency of the State of Texas pursuant to the authority granted by law.

SECTION 27. APPLICATION OF OPEN MEETINGS LAW AND ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 28. APPLICATION OF SUNSET ACT. The Texas State Board of Public Accountancy is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991.

SECTION 29. TRANSITION. (a) The Texas State Board of Public Accountancy to which this Act refers is a continuation of the Texas State Board of Public Accountancy created by The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes).

(b) A person holding office as a member of the Texas State Board of Public Accountancy on the effective date of this Act shall continue to hold office for the term for which the member was originally appointed.

(c) The terms of office of all succeeding members of the board expire on January 31 of odd-numbered years, six years after expiration of the previous term of office. The initial appointment under this Act shall be for such staggered terms as are necessary to provide for the expiration of the terms of one-third of the board members every two years.

(d) After the effective date of this Act the governor shall appoint members to the board in a manner that achieves as soon as possible the membership plan provided in this Act.

SECTION 30. REPEALER. The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), is repealed.

SECTION 31. EFFECTIVE DATE. This Act takes effect on September 1, 1979.

SECTION 32. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

SENATE RULE 74a SUSPENDED

On motion of Senator Braecklein and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 588.**

SENATE BILL 588 WITH HOUSE AMENDMENTS

Senator Braecklein called **S.B. 588** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Keller

Amend S.B. No. 588 by inserting at the end of Section 1 of the bill a new Subsection (c) to read as follows:

"(c) A Sheriff or Constable is not entitled to a fee under Subsection (a) of this section for the attempted service of citation, subpoena, summons, or process unless the officer who attempted to serve the instrument actually went to each place where the court or litigant requesting service directed that service be attempted and the officer was not able to find the person to be served at that place. In no case may a Sheriff or Constable be paid more than one fee under Subsection (a) of this section for attempted service of the same instrument, regardless of the number of times service is attempted."

Amendment No. 2 - D. Hill

Amend SB 588 Page 1, on Line 16, by changing "$6.00 to "$5.00 and on Line 17 by changing "$10.00" to "$8.00" and on Line 18 by changing "$12.00" to "$10.00"

The amendments were read.

Senator Braecklein moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

HOUSE BILL 63 ON SECOND READING

Senator Meier asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 63, Relating to the acceptance by the Parks and Wildlife Department of certain land for park purposes.

There was objection.

Senator Meier then moved to suspend the regular order of business and take up **H.B. 63** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Creighton, Farabee, Harris, Patman, Snelson.

Absent: Jones of Taylor, McKnight.

The bill was read second time and was passed to third reading by the following vote: Yeas 24, Nays 5. (Same as previous roll call)

HOUSE BILL 63 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 63** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5. (Same as previous roll call)

The bill was read third time and was passed.

RECORD OF VOTES

Senators Creighton and Patman asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1209 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1209, Relating to the prevention of drug dependence and to the treatment and rehabilitation of drug-dependent persons and persons incapacitated by controlled substances; providing a penalty.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend House Bill 1209 by adding a new section 702 and renumbering Sections 702 and subsequent sections accordingly.

SECTION 702. The sum of $210,000 is appropriated from the General Revenue Fund to the Texas Department of Community Affairs for each year of the biennium beginning September 1, 1979, for the purpose of implementing the provisions of this act.

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

HOUSE BILL 1209 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1209** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE HOUSE BILL 1619 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.S.B. 1619, Repealing, renumbering, amending certain sections of the Parks and Wildlife Code; and amending the Texas Coastal and Marine Council, General Appropriations Act, 66th Legislature, Regular Session (House Bill 558).

The bill was read second time.

Senator Schwartz offered the following amendment to the bill:

Strike all below the enacting clause and substitute the following:

SECTION 1. Section 7, Senate Bill No. 335, 66th Legislature, Regular Session, 1979, amending Section 77.090 (a), Parks and Wildlife Code, is repealed.

SECTION 2. Section 77.100, Parks and Wildlife Code, added by Senate Bill No. 64, 66th Legislature, is renumbered as Section 47.021.

SECTION 3. Section 77.091, Parks and Wildlife Code, is amended to read as follows:

"Section 77.091. COMMERCIAL SHRIMP SEASON. (a) A licensed commercial bay shrimp boat operator may catch shrimp of lawful size in the major bays during the periods from August 15 to December 15, both dates inclusive, and May 15 to July 15, both dates inclusive.

"(b) During the period from November 1 to December 15, both dates inclusive, shrimp caught in the major bays are not subject to the size requirement set out in Section 77.013 of this code.

SECTION 4. Subsection (a), Section 77.092, Parks and Wildlife Code, is amended by adding a new paragraph to become effective only upon the conditions set forth in Section 77.100 and for a period ending September 1, 1981, to read as follows:

"During the period from May 15 to July 15, both dates inclusive, after adoption of a new license form and procedure by the Department under Section 77.100, a licensed commercial bay shrimp boat operator may catch not more than 700 pounds of shrimp per boat per calendar day, and may possess or have on board a boat in the inside water or unload or attempt to unload at a point in this state not more than 700 pounds of shrimp. No boat may be operated under a commercial bay shrimp boat license and a commercial bait-shrimp boat license on the same calendar day."

SECTION 5. Section 77.095, Parks and Wildlife Code, is amended by adding Subsection (d) to read as follows:

"(d) It is a defense to a prosecution under Subsection (b) of this section that a good faith effort was made to maintain the shrimp in a live condition."

SECTION 6. Chapter 77, Parks and Wildlife Code, as amended, is amended by adding Section 77.100 to read as follows:

"Section 77.100. TRIP LIMIT. (a) During the period from May 15 to July 15, both dates inclusive, no boat to which has been issued a commercial bay shrimp boat license may make more than one trip to catch shrimp each calendar day nor unload or attempt to unload shrimp more than once each calendar day.

"(b) Following due notice and public hearing, the department shall adopt a commercial bay shrimp boat license form and procedure which is designed to be fair and enforceable and which will allow 61 daily trip permits dated consecutively beginning May 15 and ending July 15, both dates inclusive, to be used during that period.

"(c) The license form and procedure adopted shall prohibit the purchase of shrimp from a licensed commercial bay shrimp boat operator by any wholesale fish dealer or licensed shrimp house operator during the period from May 15 to July 15, both dates inclusive, unless the shrimp boat operator furnishes the fish dealer with a permit for that day, for that vessel which may be readily verified to prevent the shrimp boat operator from exceeding the daily permitted catch and the trip limit.

"(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than $500 nor more than $1,000.

"(e) The increase of catch provided for in this Act shall not be in effect until such time as the prescribed licensing procedures are developed and implemented in accordance with Section 77.100(b) and (c), Parks and Wildlife Code.

"(f) Catch limitations and license promulgation authorization provided for in Section 77.100(a), (b), (c), and (d), Parks and Wildlife Code expires on September 1, 1981 with the temporary increase provided in the new paragraph added in Section 5 of this bill.

SECTION 7. The General Appropriations Act, 66th Legislature, Regular Session (**H.B. 558**) is amended by adding a new 9 on page III-38, Texas Coastal and Marine Council and such sums are hereby appropriated to the Council for those purposes:

"9. Contingent on final enactment of SCR 51, SCR No. 62, and SR No. 553, Sixty-sixth Legislature, R.S. the following amount is appropriated to accomplish the purpose of the Resolutions.

55,000 U.B.

SECTION 8. Section 12.009, Parks and Wildlife Code, is amended by adding Subsections (c) and (d) to read as follows:

"(c) In addition to the uses specified above, the department is authorized to spend from accumulated treasury balances derived from this source, not more than $300,000 in the biennium beginning September 1, 1979, in a program of mariculture utilizing red drum and spotted sea trout in brackish or saltwater in coastal counties of this state. The department shall closely monitor the program and report fully to the 67th Legislature when it convenes in 1981.

"(d) In addition to the uses specified above, the Department is authorized to spend from accumulated treasury balances derived from this source, a sum not to exceed $100,000 to be used by the Department or provided under contract to the Fisheries Management Council for the purposes and duties of that Council and for the further purpose of conducting a statistical survey of licensed commercial fisherman in Texas to determine the time and capital investment of such fishermen devoted to fishing, waters fished, species sought, species caught, gear used, normal market channels used, market expectations, and perceptions of industry participants from the fisherman through the consumer and for the preparation of a report on said study to be presented to the 67th Legislature when it convenes in 1981."

SECTION 9. Chapter 79, Parks and Wildlife Code, is amended by adding a new subchapter to read as follows:

"Chapter 79. FISHERY MANAGEMENT [~~EXTENDED FISHERIES JURISDICTION~~]

"Subchapter A. EXTENDED FISHERY JURISDICTION

"Section 79.001. COMPLIANCE. The department is authorized to cooperate with the Gulf of Mexico Fishery Management Council established pursuant to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.), in developing state management programs which are consistent with plans proposed by the council and approved by the secretary of commerce.

"Section 79.002. AUTHORITY. New regulatory authority by the department may occur only if federal regulation in state waters is proposed and under no other circumstances. When necessary to retain jurisdiction of resources in the state, and only then, the department may follow procedures outlined in Chapter 61 of this code in promulgating rules for harvest of any and all species of marine life subject to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.).

"Section 79.003. SUSPENSION OF OTHER LAWS. Irrespective of exclusions or limited application of the Uniform Wildlife Regulatory Act (Chapter 61 of this code) or any chapter in Title 7 of this code the commission shall exercise the authority set out in Section 79.002 of this code and conflicting provisions limiting the area, species to which applicable, or special seasons, are hereby suspended when the proclamation of the commission becomes effective, but only for the period specified in such proclamation.

"Subchapter B. FISHERY MANAGEMENT JURISDICTION.

"Section 79.101. FISHERIES MANAGEMENT COUNCIL. (a) There is hereby created the Fisheries Management Council to be composed of persons to be appointed by the governor with advice and consent of the senate from the following areas and with the following interest:

"(1) a person in and from each branch of the commercial fishing industry, including but not limited to Gulf shrimping, bay shrimping, and fin fishing, residing in each state senatorial district bordering on the Gulf of Mexico;

"(2) two persons with interest in recreational fishing residing in each state senatorial district bordering on the Gulf of Mexico;

"(3) one person with academic knowledge of fisheries management or fishery statistics residing in each state senatorial district bordering on the Gulf of Mexico; and

"(4) three persons residing in the State of Texas

"(b) The governor shall appoint said members for a term of two years.

"(c) The council shall elect a chairman each year from among its members.

"(d) The members of the council are not entitled to compensation but may be reimbursed for expenses incurred in performing the responsibilities of his office.

"(e) The council may employ staff in such numbers and at such compensation as may be authorized by law or may work with one or more appropriate state institutions or agencies to carry out their responsibilities.

"Section 79.102. HEARINGS AND RECOMMENDATIONS. (a) The Fisheries Management Council shall hold such hearings in such places as it may be determined for the purpose of receiving information and testimony concerning the most effective plan for fisheries management in the salt waters of the state.

"(b) The Parks and Wildlife Department shall supply the Fisheries Management Council with all data, information, and reports in its custody.

"(c) After holding hearings and reviewing available information, the Fisheries Management Council shall recommend a fisheries management plan for salt waters of the state to the Parks and Wildlife Commission.

"(d) Sections 79.101 and 79.102 of this subchapter expire on September 1, 1981.

"Section 79.103. ADOPTION OF PLAN BY PARKS AND WILDLIFE COMMISSION. (a) The Parks and Wildlife Commission may adopt all or any part of the fisheries management plan recommended by the Fisheries Management Council with modifications it determines are necessary. The commission must prepare and file objections as part of the record on its hearing concerning the plan or parts of the plan which it does or does not adopt.

"(b) The Parks and Wildlife Commission is authorized to issue all rules and regulations necessary for the implementation of any fisheries management plan adopted under this subchapter."

SECTION 10. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

WILLIAMS
SCHWARTZ

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1619 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1619** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

The bill was read third time and was passed.

CONFERENCE COMMITTEE ON SENATE BILL 287 DISCHARGED

On motion of Senator Meier and by unanimous consent, the Conference Committee on **S.B. 287** was discharged.

Question - Shall the Senate concur in the House amendments?

Senator Meier moved that the Senate do not concur in the House amendments, but that a new Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the new Conference Committee on **S.B. 287** before appointment.

There were no motions offered.

The President announced the appointment of the following new conferees on the part of the Senate on the bill: Senators Meier, Chairman; Farabee, Santiesteban, Braecklein and Longoria.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 797.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 797 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 797.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

HOUSE BILL 1936 ON SECOND READING

Senator Harris moved to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 1936, Relating to the regulation of certain coin-operated amusement machines and billiard tables by counties, cities, and other political subdivisions and to the relationship of location of machines to zoning regulations.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Jones of Taylor, Patman.

Absent: McKnight, Moore, Snelson.

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

HOUSE BILL 1936 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1936** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2. (Same as previous roll call)

The bill was read third time and was passed.

CONFERENCE COMMITTEE REPORT SENATE BILL 276

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 276** have met and 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.

DOGGETT
BROOKS
BLAKE
TRUAN
MAUZY
On the part of the Senate

CEVERHA
BODE
LALOR
L. HALL
EVANS
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to regulation of nursing home administrators.

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

SECTION 1. Section 3, Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), is amended by amending Subsections (1), (2), (4), (5), (9), and (10) and by adding Subsection (11) to read as follows:

(1) There is hereby created the Texas Board of Licensure for Nursing Home Administrators which shall consist of nine (9) [~~six (6)~~] members. The Commissioner of Human Resources [~~Public Welfare~~] for the State of Texas, or his designee, and the Commissioner of Health of the Texas [~~State~~] Department of [~~Public~~] Health, or his designee, shall be ex officio nonvoting members of the board. Such designees shall be chosen from those representatives of the respective departments who are actively assigned to and are engaged in work in the nursing home field. One member shall be a physician duly licensed by the State of Texas;[,] one member shall be an educator connected with a university program in public health or medical or nursing home care administration within the State of Texas or a psychiatrist whose field includes geriatric or institutional psychiatry, or a psychologist whose field includes clinical psychology or educational psychology. Four[~~, and four~~] (4) members shall be duly licensed

nursing home administrators of the State of Texas; however, at least one of these four shall represent a nonproprietary [~~non-proprietory~~] nursing home. Three (3) members must be representatives of the general public who are not licensed under this Act.

(2) Appointments to the board shall be made by the Governor with the advice and consent of the senate [~~after consultation with the associations and societies appropriate to the disciplines and professions representative of the vacancies to be filled~~]. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(4) Appointed members of the board serve staggered terms of six (6) years with the terms of three (3) [~~two (2)~~] members expiring on January 31 of each odd-number year. [~~In making the initial appointments, the Governor shall designate two (2) members for terms expiring in 1973, two (2) members for terms expiring in 1975, and two (2) members for terms expiring in 1977.~~] Vacancies on the board shall be filled by appointment for the unexpired portion of the term.

(5) All appointive members of the board who are nursing home administrators shall hold degrees [~~a degree~~] from an accredited four year college or university and shall have special interest, background, and experience in the field of care for the aged. They shall be residents of the State of Texas and citizens of the United States and shall be of good character.

In lieu of the degree requirement above specified an appointee who is a nursing home administrator representative may nevertheless qualify by submitting to the Governor satisfactory evidence of two (2) years of practical experience as a nursing home administrator for each year, whether one or more, of four (4) years of college and such appointee shall receive credit toward his qualifications for each full year of credits earned by him in an accredited college or university.

(9) All money collected under this Act [~~license fees~~] shall be deposited in the state treasury in a designated separate account in the name of the board and shall be subject to appropriation by the legislature only for use by the board.

(10) The Texas Board of Licensure for Nursing Home Administrators is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 [~~1979~~].

(11) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 2. Sections 4, 6, 8, and 9, Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 4. ORGANIZATION OF THE BOARD. (1) As soon as practicable after appointment, appointive members of the board shall be certified by the Governor's office and shall take the constitutional oath of office for officers of the State of Texas. The board shall elect from its appointive members a chairman and vice chairman and these officers shall be elected to serve for [~~the calendar~~] one (1) year or so much thereof as shall remain, and elections for these offices shall be held annually thereafter for the term of a [~~calendar~~] year. Elections to fill vacancies shall be held in the same manner for the balance of any unexpired term. The board shall appoint a person to be [~~also elect a~~] secretary to the board who shall serve at the pleasure of the board and who shall be the chief executive officer to the board but not a member thereof. The secretary shall have such powers and shall perform such duties as may be prescribed by law or delegated to him by the board under its rules and regulations. Suitable office space, equipment and supplies and additional agents or employees as may be

required for discharging the functions of the board shall be provided within the limits of the funds available to the board as hereinafter provided for. The board shall adopt an official seal which shall be affixed to licenses, certificates and other official documents of the board.

(2) The secretary and such other person as the board may designate, as an alternate, shall act as fiscal agent for the board and shall be responsible for the receipt, deposit, safekeeping and disbursement of all funds of the agency, provided, however, that at all times the board shall cause to be maintained in force a fidelity bond covering the secretary and such other person in an amount which shall at all times exceed any reasonable expectations as to the total amount of funds to be held at any one time to the account of the board. At no time shall the fidelity bond or bonds be for an amount less than $25,000.00.

(3) The board shall hold not less than four [~~two~~] meetings per year after due notice thereof and at any meeting a majority of the board shall constitute a quorum. Board members shall receive a per diem of $25.00 while engaged in board business together with actual and necessary expenses.

(4) Each member of the board shall be present for at least one-half of the regularly scheduled meetings held each year by the board. The failure of a member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

(5) The Texas Board of Licensure for Nursing Home Administrators shall be administratively attached to the Texas Department of Health. The department shall provide administrative assistance to the board; and the department and the board shall coordinate administrative responsibilities in order to avoid unnecessary duplication and in futherance of the objective of providing quality nursing home services. The department shall submit the board's budget requests to the legislature. The department and the board shall share investigative staff and other employees. However, the board may employ its own additional investigative staff.

Sec. 6. FUNCTIONS AND DUTIES OF THE BOARD. It shall be the function and duty of the board to:

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator and standards which must be met by licensees, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators and satisfactorily perform the duties of nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(7) conduct or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this Act, and make provisions for the conduct of such courses and their accessibility to residents of this State, unless it finds that there are a sufficient number of courses conducted by others within this State to meet the needs of the State. In lieu thereof the board may approve courses conducted within and without the State as sufficient to meet the education and training requirements of this Act; and

(8) on request, provide to each individual who fails an examination administered by the board an analysis of the individual's performance on the examination.

Sec. 8. RULEMAKING [~~RULE MAKING~~] AUTHORITY. (a) The Board shall have the authority to make rules and regulations not inconsistent, with law as may be necessary or proper for the performance of its duties, and to take such other actions as may be necessary to enable the State to meet the requirements set forth in Section 1908 of the Social Security Act, the Federal rules and regulations promulgated thereunder, and other pertinent Federal authority; provided, however, that no rule shall be promulgated, altered or abolished without the approval of a two-thirds majority of the Board.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committees' statements.

Sec. 9. QUALIFICATIONS FOR LICENSURE. The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

(1) he is at least 18 [~~21~~] years of age, of good moral character, and sound in mental and physical health[~~, and is a citizen of the United States or has duly declared his intention of becoming a citizen of the United States~~];

(2) he has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be conducted by or in cooperation with an accredited postsecondary educational institution and which course shall be so designed as to content and so administered as to present sufficient knowledge of the proper needs to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or has presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to enable him to administer, supervise and manage a nursing home;

(3) he has passed an examination administered by the board and designed to test for competence in the subject matters referred to in subsection (2) hereof;

(4) that applicant submit written evidence, on forms provided for such purpose by the board, that he has successfully completed a course of study and has been graduated from a high school or secondary school approved and recognized by the educational authorities of the State in which such school is located, or a political division thereof, or has submitted a certificate indicating that he has obtained high school or secondary school equivalency, such certificate

being certified by a State educational authority or a political division thereof; and

(5) that applicant has complied with all other qualifications and requirements as may have been established by rule and regulation of the board.

[~~(6) Notwithstanding other requirements and qualifications to the contrary set forth in this Section, the Board may issue a Provisional License to any individual applying therefor who (1) has served as a nursing home administrator during all of the calendar year immediately preceding July 1, 1970, (2) meets the standards of the Board and of this Act relating to good moral character, suitability, age, and citizenship, and (3) has paid the license fee prescribed in Section 10 of this Act. Such Provisional License shall terminate after two (2) years, or at midnight, June 30, 1972, whichever is earlier, and shall be cancelled and be of no legal force or effect thereafter; provided, however, that if, prior to the expiration of such Provisional License, the holder thereof shall have passed a qualifying examination and complied with all other requirements of this Act and the Board, a nursing home administrator's license shall be issued to him. A Provisional License or extension thereof may not be issued to any person after June 30, 1972.~~]

SECTION 3. The Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), is amended by adding Sections 3A and 11A to read as follows:

Sec. 3A. RESTRICTIONS ON BOARD MEMBERS, ETC. (1) A member of the board or an employee of the board or of the Texas Board of Health who carries out the functions of the board may not:

(a) be an officer, employee, or paid consultant of a trade association in the nursing home industry;

(b) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the nursing home industry; or

(c) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the board unless notice and an opportunity to participate is given to all parties to the proceeding, if the member or agent is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(2) Members of the board, except those members who are duly licensed nursing home administrators, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in nursing homes as officers, directors, partners, owners, employees, attorneys, or paid consultants of the nursing homes or otherwise.

(3) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the board or serve as a member of the board.

Sec. 11A. INJUNCTION. A person who violates Section 7 of this Act or who engages in conduct that is grounds for revocation or suspension of the person's license under Section 11 of this Act, on petition of the board, may be enjoined or restrained by a district court from practicing nursing home administration.

SECTION 4. Subsections (2), (3), (4), (5), and (6), Section 10, Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), are amended to read as follows:

(2) Every holder of a nursing home administrator's license shall renew it biennially, by making application to the board. The license remains valid and is subject to renewal for 30 days after the expiration date of the license. The board

shall notify each person licensed under this Act of the expiration date of the person's license and the amount of the fee that is required for its renewal. The notice shall be mailed at least 30 days before the expiration date of the license. A person renews an unexpired license or a license that has been expired for 30 days or less by paying to the board the renewal fee. A person renews a license that has been expired for more than 30 days but less than one year by paying to the board the renewal fee plus $20.00. A person may not renew a license that has been expired for one year or more, but the person may obtain a new license by applying for the license in the manner that a person applies for an original license. Renewals of licenses shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such a manner or under circumstances, as would constitute grounds for suspension or revocation of a license.

(3) Each person licensed as a nursing home administrator shall pay an initial license fee to be fixed by the board which shall not exceed $100.00. [~~Each license issued under this Act shall expire on June 30 of even-numbered years and may be renewable.~~] Renewal licenses shall be issued biennially at a fee to be set by the board which shall not exceed $100.00 for the biennium. Reasonable fees shall be set by the board for the issuance of copies of public records in its office as well as for certificates or transcripts and duplicates of lost instruments. Each applicant for examination and license shall accompany the application with an examination fee not to exceed $100.00 [~~of $70.00,~~] which shall not be refundable, for investigation, processing, and testing purposes. Upon the certification by any department, division, board or agency of the State of Texas of the necessity therefor, all examination fees and license fees provided for herein shall be waived for any employee of such state entity so long as such person remains an employee of the State of Texas and does not serve as a nursing home administrator of a nursing home operated other than by such state entity. The board shall set the fees in amounts that produce sufficient money for administering this Act.

(4) The board may issue a nursing home administrator's license for the regular fee to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this State; and that the applicant is otherwise qualified; and that the other state gives similar recognition and endorsement to nursing home administrators licenses of the State of Texas.

(5) The board shall have authority to receive and disburse funds received pursuant to Section 1908(e)(1) of the Social Security Act or from any other Federal source of funds or grants for the furtherance of board duties and responsibilities hereunder.

[~~(6) All fees or other monies received by said board under this law shall be deposited to the account of the board in federally insured accounts and shall be paid out on vouchers duly issued in a manner directed by the board. All monies so received and placed to the account of the board may be used by the board in defraying its expenses in carrying on the provisions of this law. No expenses incurred by said board shall be paid by the State.~~]

SECTION 5. Section 11, Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), is amended by adding Subsections (5), (6), (7), (8), (9), (10), and (11) to read as follows:

(5) If a written complaint is filed with the board or the Texas Board of Health relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

(6) The board must within 31 days from the date of filing of the complaint determine whether a hearing shall be held on such complaint or whether such complaint shall be dismissed and shall notify both the person who filed the complaint and the person against whom the complaint has been filed of the board's decision.

(7) If the board determines that a hearing should be held on a complaint, the board shall designate a hearing officer to conduct the hearing on the complaint. The hearing shall be held within 61 days from the date that the written complaint was filed unless such time is extended in writing by the board.

(8) The hearing officer shall keep a complete record of the hearing and shall transmit the record to the board when completed.

(9) The hearing officer shall forward to the board the complete record of the hearing not later than 30 days from the date of the hearing along with the hearing officer's recommendations concerning what disciplinary action, if any, should be taken by the board with respect to the complaint.

(10) The board shall take action on such complaint by written order not later than the 120th day following the filing of the complaint, unless the date for hearing was delayed pursuant to Subsection (7) of this section, in which case the deadline for the order is extended accordingly. Copies of the order and the record of the hearing shall be filed together in the office of the board, indexed, and made available for public inspection.

(11) The board shall maintain an information file on each complaint it receives.

SECTION 6. Membership. (a) In making the initial appointments of public members to the Texas Board of Licensure for Nursing Home Administrators, the governor shall designate one public member for a term expiring on January 31, 1981, one for a term expiring on January 31, 1983, and one for a term expiring on January 31, 1985.

(b) A person holding office as a member of the Texas Board of Licensure for Nursing Home administrators on September 1, 1979, other than the ex officio members, who satisfies the provisions of this Act, continues to hold office for the term for which the member was originally appointed.

SECTION 7. The Texas Nursing Home Administrators Licensure Act, as amended (Article 4442d, Vernon's Texas Civil Statutes), is amended by adding a new Section 7A to read as follows:

Sec. 7A. There shall at all times be prominently displayed in every nursing home regulated by the state, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the Texas Board of Licensure for Nursing Home Administrators and which shall contain a statement informing consumers that complaints against nursing home administrators can be directed to the board.

SECTION 8. This Act takes effect on September 1, 1979.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

SENATE RESOLUTION 742

Senator Ogg offered the following resolution:

S.R. 742, Requesting the Legislative Council to complete the revision of the Texas Election Code.

The resolution was read.

On motion of Senator Ogg and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE BILL 2122 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2122, Relating to the investment of public funds in the custody of state agencies and political subdivisions.

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

HOUSE BILL 2122 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2122** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

MOTION TO PLACE HOUSE BILL 1064 ON SECOND READING

Senator Ogg asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 1064, Relating to the election of members of the board of trustees for certain school districts from single-member trustee districts; amending Section 1 and Subsection (a), Section 3, Chapter 339, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 2774b,

There was objection.

Senator Ogg then moved to suspend the regular order of business and take up **H.B. 1064** for consideration at this time.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 16, Nays 14, Present-Not voting 1.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Mengden, Moore, Price, Short, Traeger, Williams.

Present-Not voting: Snelson.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 172, In memory of Hiram Isaac White.

H.C.R. 233 Congratulating Dalhart Windberg on being selected State Artist for 1979

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT HOUSE BILL 1558

Senator Andujar submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1558** have met and 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.

ANDUJAR
HARRIS
HOWARD
CREIGHTON
TRAEGER
On the part of the Senate

HALL
THOMPSON
LEONARD
G. GREEN
GILLEY
On the part of the House

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Doggett and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 276.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 276 ADOPTED

Senator Doggett called from the President's table the Conference Committee Report on **S.B. 276.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Doggett, the Conference Committee Report was adopted.

HOUSE BILL 1309 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1309, Relating to establishing standards for the accreditation of librarians and standards for libraries in public schools.

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

HOUSE BILL 1309 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1309** 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.

HOUSE BILL 1814 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1814, Relating to the regulation of surface mining.

The bill was read second time.

Senator Schwartz offered the following amendment to the bill:

H.B. No. 1814 is amended to delete on lines 10 and 11 the words ", and in situ gasification of coal and lignite".

The amendment was read and was adopted.

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

The bill as amended was passed to third reading.

HOUSE BILL 1814 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1814** 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.

HOUSE BILL 869 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 869, Relating to the importation of liquor in small containers for personal use.

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

HOUSE BILL 869 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 869** 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.

CONFERENCE COMMITTEE REPORT SENATE BILL 281

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 281** have met and 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.

DOGGETT
JONES OF HARRIS
MAUZY
SCHWARTZ
MEIER
On the part of the Senate

LALOR
BODE
JACKSON
EVANS
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to regulation of lawyers by the Supreme Court and the Board of Law Examiners.

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

SECTION 1. Articles 304, 304a, 305, 306, 308, and 310, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

Art. 304. BOARD OF EXAMINERS. (a) The Board of Law Examiners shall consist of nine lawyers having the qualifications required of members of the Supreme Court. Members [~~They~~] shall be biennially appointed by the Supreme Court and shall each hold office for two years and be subject to removal by the Supreme Court for incompetency or inattention to duty. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

(b) If a member of the Board has a financial interest, other than a remote financial interest, in a decision pending before the Board, the member is disqualified from participating in the decision.

(c) A person holding office as a member of the Board of Law Examiners on September 1, 1979, continues to hold office for the term for which the member was originally appointed. The terms of office of all succeeding members expire September 30 of odd-numbered years.

(d) No Board member or employee of the Board shall be an employee or paid consultant of a trade association in the field of Board interest.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the Board or serve as a member of the Board.

(f) The Board is subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

Examination questions that may be used in the future, exams other than the one taken by the person requesting it, and deliberations and records relating to the moral character and fitness of applicant shall be exempted from the open meetings law and the open records law. Such records, however, shall be

disclosed to individual applicants upon written request, unless the person supplying the information requests that it not be disclosed; provided, however, that the Board shall not inquire whether the person objects to disclosure or inform him of his right to do so.

Art. 304a. APPLICATION OF SUNSET ACT. The Board of Law Examiners is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished effective September 1, 1991 [~~1979~~].

Art. 305. DUTIES OF BOARD. (a) Such Board, acting under instructions of the Supreme Court as hereinafter provided, shall pass upon the eligibility of all candidates for examination for license to practice law within this State, and examine such of these as may show themselves eligible therefor, as to their qualifications to practice law. Such Board shall not recommend any person for license to practice law unless such person shall show to the Board, in the manner to be prescribed by the Supreme Court, that he is of such moral character and of such capacity and attainment that it would be proper for him to be licensed.

(b) If requested in writing by any applicant for a license who takes and fails an examination administered by the Board, the Board shall furnish to the applicant an oral or written analysis of the applicant's performance on the examination. An oral analysis may be recorded by the applicant.

Article 306. AUTHORITY OF SUPREME COURT. (a) The Supreme Court is hereby authorized to make such rules as in its judgment may be proper to govern eligibility for such examination and the manner of conducting the same, covering, among other points, proper guarantee to insure:

1. Good moral character on the part of each candidate for license;
2. Adequate pre-legal study and attainment;
3. Adequate study of the law for at least two years, covering the course of study prescribed by the Supreme Court, or the equivalent of such course;
4. The legal topics to be covered by such study and by the examination given;
5. The times [~~time~~] and places [~~place~~] for holding the examination, the manner of conducting same, and the grades to be made by the candidates to entitle them to be licensed;[~~.~~]

[~~Whenever as many as five applicants shall request the Board to conduct an examination in any particular town or city convenient to their place of residence, the examination of such applicants shall be conducted at such town or city at some suitable time, to be determined by the Board;~~]

6. Any other such matters consistent with this Act as shall be desirable in order to make the issuance of a license to practice law evidence of good character, and fair capacity and real attainment and proficiency in the knowledge of law.

The completion of prescribed study in an approved law school as herein defined shall satisfy the law study requirements for taking the aforesaid examination. An approved law school is hereby defined as one which is approved by the Supreme Court for the period of time designated by such Court, and as maintaining the additional standards prescribed by the Court. No license to practice law in this state shall be issued by any court or authority except by the Supreme Court of this state, under the provisions of this title. The power granted to the Supreme Court by this Act shall not be delegated.

(b) The Supreme Court shall adopt rules necessary to administer its functions and to govern the administration of the Board's functions relating to the licensing of lawyers.

Art. 308. FOREIGN ATTORNEYS. (a) The Board shall recommend to the Supreme Court that it license and the Supreme Court shall issue a license to an applicant if the applicant has practiced law for three years and has a license to practice law issued by another state or territory or by the District of Columbia, and the licensing standards of the other state or territory or the District of Columbia are equivalent to or exceed those of this state.

(b) If the licensing standards of the other state or territory or the District of Columbia are not equivalent to or do not exceed those of this state, the Board may require that the applicant take the examination for a license to practice law. [~~The Supreme Court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this State as it shall deem proper and just.~~] All such immigrant attorneys shall be required to furnish satisfactory proof as to good moral character and fitness.

Art. 310. FEES. (a) The fee for any examination given by the Board shall be fixed by the Supreme Court, not to exceed $75 for each candidate, which shall be paid to the clerk of said court at the time the application for examination is made. The money thus obtained shall be used to pay all legitimate expenses incurred in holding the examination; and as compensation to the members of the Board, under such regulations as shall be determined by the Supreme Court. Provided that the compensation, not including reasonable and necessary actual expenses paid to any member of the Board, shall not exceed Fifteen Thousand Dollars ($15,000.00) per annum.

(b) The fee for an investigation of the moral character and fitness of each candidate is set by the Supreme Court, not to exceed $75. The candidate must pay the investigation fee to the Board at the time it is requested by the Board. If the fees collected from individuals for the investigation of moral character and fitness are in excess of the cost to the Board of conducting the investigation, the fees shall be proportionately decreased to insure that excessive fees are not collected by the Board.

(c) Fees received by the clerk or the Board shall be deposited in a fund established by the Supreme Court and may be used only to administer the functions of the Supreme Court and the Board relating to the licensing of lawyers as directed by the Court.

(d) The financial transactions of the board shall be audited annually by the State Auditor.

SECTION 2. Chapter 2, Acts of the 43rd Legislature, 4th Called Session, 1934 (Article 305a, Vernon's Texas Civil Statutes), is repealed and new a Article 305a is added to Title 14, Revised Civil Statutes of Texas, 1925, as amended, to read as follows:

Art. 305a. MORAL CHARACTER AND FITNESS OF APPLICANTS.

(a) The Board may conduct an investigation of the moral character and fitness of an applicant for a license.

(b) The Board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants for licenses.

(c) The Board may not recommend the denial of a license and the Supreme Court may not deny a license to an applicant on the ground of a deficiency in the applicant's moral character or fitness unless:

(1) the Board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant is licensed to practice law; or

(2) the Board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal profession if the applicant is licensed to practice law.

(d) Each person intending to apply for admission to the bar of this state shall file with the secretary of the Board a Declaration of Intention to Study Law. The declaration shall be filed on a form provided by the Board. Forms provided by the Board for the filing of a Declaration of Intention to Study Law shall clearly identify those conditions of character and fitness provided in Subsection (e) of this article that may be investigated by the Board and that may result in the denial of the declarant's application to sit for the bar examination. Within 180 days after the filing of the declaration the Board shall notify the declarant whether or not it has determined he has acceptable character and fitness. If the Board determines he does not have acceptable character and fitness the notice shall be accompanied by an analysis of the character investigation which specifies the results of that investigation in detail. The Board shall limit its investigation of the moral character and fitness of an applicant to those areas clearly related to the applicant's moral character and present fitness to practice law.

(e) All candidates to take the bar examination must file an application to take the examination with the secretary of the Board. Applications shall be filed not less than 180 days prior to the first day of the examination in which the applicant wishes to participate. The requirements of the application shall be limited to an affidavit, duly verified, setting forth the following statements that since the filing of his or her original declaration:

(1) the applicant has not been formally charged of any violation of law, excluding cases which have been dismissed for reasons other than technical defects in the charging instrument or in which he has been found not guilty, minor traffic violations, records of arrests or convictions expunged by court order, pardoned offenses, and records of arrests for and convictions of Class C misdemeanors;

(2) the applicant is not mentally ill;

(3) the applicant has not been charged with fraud in any legal proceeding; and

(4) the applicant has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(f) Based on the investigation of the preceding conditions of character and fitness performed after the filing of a Declaration of Intent to Study Law, the filing of an affidavit attesting to the preceding statements on application to take the bar exam, and its investigation into the accuracy of the statements in, or truth of statements omitted from the affidavit required by Subsection (e) of this section, the Board shall assess the applicant's fitness and moral character. If the Board determines the applicant does not possess the requisite good moral character and fitness the Board shall furnish to the applicant an analysis of the character investigation that specifies the results of that investigation in detail within 150 days after the filing of the application."

Art. 305c. DISTRICT COMMITTEE ON ADMISSIONS. (a) For the purpose of aiding the Board in determining the good moral character and the fitness of each declarant to become a member of the profession, there is created a District Committee on Admissions in each of the state bar districts to investigate qualifications for admission to the bar at the time of filing the Declaration of Intent to Study Law only.

(b) A district committee is composed of at least 15 members appointed by the Supreme Court.

(c) Three members of a district committee must be at the time of their appointments representatives of the general public who do not have, other than as consumers, financial interests in the practice of law, three members must be at the time of their appointments lawyers who are licensed to practice law in the

state, and the remaining members must be similarly qualified representatives of the general public or lawyers. In a bar district in which a law school approved by the Supreme Court is located, three members of the committee must be at the time of their appointments law students who are enrolled in a law school in the bar district that is approved by the Supreme Court.

(d) Except for the initial appointees, members of a district committee hold office for two-year terms expiring on January 21 of each odd-numbered year. The initial appointees serve for terms expiring on January 31, 1983.

(e) The Supreme Court shall appoint the chairman of each district committee.

(f) Five members of a district committee constitute a quorum.

(g) The district committee shall aid the Board in investigating the moral character and fitness of a person filing a Declaration of Intent to Study Law.

(h) The Supreme Court shall adopt rules requiring that persons filing Declaration of Intent to Study Law be treated uniformly and impartially by the district committees.

SECTION 3. Article 311, Revised Civil Statutes of Texas, 1925, is repealed.

SECTION 4. This Act takes effect on September 1, 1979.

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

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

HOUSE BILL 1358 ON SECOND READING

Senator Truan asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 1358, Relating to establishment of a state veterans' cemetery.

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **H.B. 1358** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Blake, Brooks, Clower, Doggett, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Parker, Patman, Price, Santiesteban, Schwartz, Traeger, Truan, Vale, Williams.

Nays: Andujar, Braecklein, Creighton, Farabee, Harris, McKnight, Mengden, Ogg, Short.

Absent: Moore, Snelson.

The bill was read second time and was passed to third reading by the following vote: Yeas 17, Nays 14.

Yeas: Blake, Brooks, Clower, Doggett, Kothmann, Longoria, Mauzy, Meier, Parker, Patman, Price, Santiesteban, Schwartz, Traeger, Truan, Vale, Williams.

Nays: Andujar, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Mengden, Moore, Ogg, Short, Snelson.

MOTION TO PLACE HOUSE BILL 1358 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1358** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 12, Nays 19.

Yeas: Brooks, Doggett, Kothmann, Longoria, Mauzy, Meier, Parker, Patman, Santiesteban, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Mengden, Moore, Ogg, Price, Short, Snelson, Traeger, Williams.

MOTION TO PLACE HOUSE BILL 1688 ON SECOND READING

Senator Ogg moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1688, Relating to the reimbursement of certain hospital districts for services rendered to nonresident patients.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 18, Nays 12.

Yeas: Andujar, Braecklein, Brooks, Clower, Doggett, Harris, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Santiesteban, Schwartz, Truan, Vale, Williams.

Nays: Blake, Creighton, Farabee, Howard, Jones of Taylor, McKnight, Moore, Patman, Price, Short, Snelson, Traeger.

Absent: Parker.

MOTION TO PLACE HOUSE CONCURRENT RESOLUTION 64 ON SECOND READING

Senator Doggett moved to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.C.R. 64, Supporting the United Nations proclamation declaring the year 1979 as the International Year of the Child.

The motion was lost by the following vote: Yeas 11, Nays 16.

Yeas: Brooks, Clower, Doggett, Farabee, Jones of Harris, Mauzy, Ogg, Patman, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Harris, Howard, Jones of Taylor, Kothmann, Meier, Mengden, Moore, Price, Santiesteban, Short, Traeger, Williams.

Absent: Longoria, McKnight, Parker, Snelson.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Doggett and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 281.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 281 ADOPTED

Senator Doggett called from the President's table the Conference Committee Report on **S.B. 281.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Doggett, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Parker, Snelson.

(Senator Schwartz in Chair)

MOTION TO PLACE HOUSE BILL 1971 ON SECOND READING

Senator Short moved to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 1971, Relating to an interstate compact on grain marketing.

The motion was lost by the following vote: Yeas 11, Nays 18.

Yeas: Brooks, Clower, Doggett, Farabee, Kothmann, Mauzy, Patman, Schwartz, Short, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Traeger, Williams.

Absent: Parker, Snelson.

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 350 adopted by a vote of 87 Ayes, 54 Noes, 2 Present-Not Voting.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 558 adopted by a vote of 74 Ayes, 70 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 263 by a vote of 65 Ayes, 62 Noes, 1 Present Not Voting.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 758 by a vote of 88 Ayes, 38 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1918 by a vote of 114 Ayes, 24 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 864 by a vote of 143 Ayes, 0 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1460 by a vote of 131 Ayes, 4 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2030 by a vote of 131 Ayes, 3 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 2100 by a vote of 135 Ayes, 0 Noes.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 1060 adopted by a vote of 118 Ayes, 27 Noes.

House discharged Conference Committee on Senate Bill No. 287 and has appointed the following conferees: Nabers - Chairman; Donaldson, Chavez, Evans, Lalor.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 628 by a vote of 125 Ayes, 9 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 735 by a vote of 123 Ayes, 8 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 771 by a vote of 131 Ayes, 9 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1134 by a vote of 126 Ayes, 9 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1552 by a vote of 121 Ayes, 13 Noes.

S.C.R. 106 Allowing the Conference Committee on **S.B. 797** to add certain provisions

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2107 by a vote of 126 Ayes, 15 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2269 by a vote of 129 Ayes, 2 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 124 adopted by a vote of 134 Ayes, 6 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 662 adopted by a vote of 138 Ayes, 0 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1474 by a vote of 99 Ayes, 36 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1325 by a vote of 95 Ayes, 26 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 284 adopted by a vote of 140 Ayes, 2 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1619 by a vote of 121 Ayes, 12 Noes, 2 Present-Not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 995 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 995, Relating to the designation of certain highways.

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

HOUSE BILL 995 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 995** 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.

CONFERENCE COMMITTEE REPORT SENATE BILL 287

Senator Meier submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 287 have met and 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.

MEIER
BRAECKLEIN
SANTIESTEBAN
LONGORIA
FARABEE
On the part of the Senate

NABERS
LALOR
DONALDSON
CHAVEZ
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of attorneys; revising the State Bar Act, as amended (Article 320a-1, Vernon's Texas Civil Statutes), relating to the organization, property, administration, governing body, officials, membership, and committees of the State Bar of Texas; providing for the responsibilities and powers of the Governor, Supreme Court of Texas, and the State Bar in implementing and carrying out the purposes of this Act; defining the practice of law; providing for disciplinary and disbarment procedures and for appeals; authorizing the assessment and prescribing the use of dues and fees for members; providing the extent of application of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes); containing carry-over clauses and setting out the expiration date of the Texas Sunset Act as applicable to the State Bar.

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

SECTION 1. The State Bar Act, as amended (Article 320a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SHORT TITLE. This Act may be cited as the State Bar Act.

Sec. 2. GENERAL POWERS. The State Bar of Texas established under the laws of this state is continued as a public corporation and an administrative agency of the judicial department of government. It is designated as the State Bar. This legislation is in aid of the judicial department's powers under the constitution to regulate the practice of law and not to the exclusion of those powers. The Supreme Court of Texas, on behalf of the judicial department, shall exercise administrative control over the State Bar under this Act.

Sec. 3. PURPOSES. The purposes of the State Bar shall be to aid the courts in carrying on and improving the administration of justice; to advance the quality of legal services to the public; to foster and maintain on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service, and high standards of conduct; to provide proper professional

services to the members of the State Bar; to encourage the formation and activities of the local bar associations; to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform; and the relationship of the State Bar to the public and to publish information relating thereto; to the end that the public responsibilities of the legal profession may be more effectively discharged.

Sec. 4. SEAL; SUITS AND CONTRACTS; GIFTS. The State Bar has an official seal which shall not be used for private purposes.

The State Bar may sue and be sued in its own name. For the purposes of carrying into effect and promoting objectives of this Act, the State Bar may enter into contracts and do all other acts incidental to the foregoing that are necessary or expedient for the administration of its affairs and the attainment of its purposes.

The State Bar may acquire by gift, bequest, devise, or otherwise any real or personal property or any interest in that property. The State Bar may acquire, hold, lease, encumber, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act.

Sec. 5. PROPERTY. All property of the State Bar is declared to be held by the State Bar for the purposes expressed in Section 3 of this Act.

Sec. 6. INDEBTEDNESS, LIABILITY, OR OBLIGATION. No indebtedness, liability, or obligation of the State Bar shall:

(1) create a debt or other liability of the state nor of any entity other than the State Bar or any successor public corporation;

(2) create any personal liability on the part of the members of the State Bar or the members of the board of directors or any authorized person issuing, executing, or delivering any evidence of the indebtedness, liability, or obligation;

(3) be created that cannot be paid from the receipts for the current year, except with the approval obtained by referendum of all members of the State Bar as provided in Section 8 of this Act.

Sec. 7. FISCAL POWERS. (a) The executive director of the State Bar shall confer with the clerk of the Supreme Court and shall supervise the administrative staff of the State Bar in preparation of the annual budget.

The proposed budget shall be presented annually at a public hearing. Any member of the public may participate in the discussion of any item proposed to be included in the budget. The executive director of the State Bar shall preside at the hearing, or if unable to do so, the executive director may authorize any employee of the administrative staff or any officer or director of the State Bar to represent him or her.

No less than 30 days prior to the time the hearing is held, the proposed budget as well as the time and place of the budget hearing shall be disseminated to the membership of the State Bar and to the public.

After the public hearing, the proposed budget shall be submitted to the board of directors for their consideration. The budget which is adopted by the board of directors shall be submitted to the Supreme Court for final review and approval. By action of the board of directors at a regular or special meeting, the budget may be amended subject to approval by the Supreme Court.

(b) The state auditor shall audit the financial transactions of the State Bar during each fiscal year with the expense of the audit to be borne by the State Bar. The auditors' report shall be published in the Bar Journal.

Sec. 8. RULEMAKING POWERS. (a) From time to time, either as the Supreme Court considers necessary or pursuant to a resolution of the board of directors of the State Bar or pursuant to a petition signed by at least 10 percent of the registered members of the State Bar, the Supreme Court may prepare and propose and adopt rules and regulations or amendments to the rules or

regulations for the operation, maintenance, and conduct of the State Bar and the discipline of its members.

(b) When the Supreme Court has prepared and proposed the rules, regulations, or amendments to the rules or regulations, as set out above in Subsection (a), it shall submit by mail a copy of each rule and regulation in ballot form to each registered member of the State Bar for a vote. At the end of 30 days from the time the ballots are mailed, the court shall count the ballots that have been returned, provided that no election shall be valid unless a minimum of 51 percent of the members registered shall have voted at the election at which the rules, regulations, or amendments are adopted; and each of the rules and regulations that has received a majority of the votes cast shall be by the court declared and adopted and shall be promulgated by the court and shall become immediately effective. The vote shall be open to inspection by any member of the bar or public. No rule or regulation shall be promulgated hat has not received a majority of votes cast in the manner provided above.

Sec. 9. ADMINISTRATIVE PROVISIONS. (a) The governing body of the State Bar shall be its board of directors on whom shall rest the duty of enforcing the provisions of this Act. Board of directors' meetings shall be conducted in compliance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

The board shall be composed of the officers of the State Bar, the president, president-elect, and immediate past president of the Texas Young Lawyers Association, not more than 30 members of the State Bar elected by the membership from their district as may be determined by the board, and six persons who are not licensed attorneys, who do not have, other than as consumers, a financial interest in the practice of law. Three of these six nonlawyer members shall be appointed by the Supreme Court of Texas and confirmed by the senate and the other three of the six nonlawyer members shall be appointed by the Supreme Court from a list of not less than 15 names to be submitted by the Governor of Texas, and these appointees shall be confirmed by the senate. The nonattorney members shall serve for staggered terms of the same duration as those of elected members of the board. An individual who has served more than half of a full term is not eligible again to be appointed to the board. In making the initial appointments, the Supreme Court of Texas shall appoint two of the persons for a term expiring in June, 1980, two of the persons for a term expiring in June, 1981, and two of the persons for a term expiring in June, 1982. Beginning with June, 1980, and annually thereafter, the Supreme Court shall appoint two nonlawyer directors for a term of the same duration as those of the elected members of the board, one of whom must be from a list of not less than five names submitted by the Governor of Texas. In making their appointments of these nonlawyer members, the Supreme Court and the governor shall endeavor to assure full and fair representation of the general public, including women, ethnic minorities, and retired persons. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

The officers of the State Bar shall consist of the president, president-elect, and immediate past president. The officers shall be elected in accordance with rules and regulations governing the election of State Bar officers and directors which the Supreme Court shall prepare and propose in accordance with Section 8(b) of this Act; provided, however, the election rules shall include a provision that permits any member's name to be printed on the ballot as a candidate for president-elect whenever a written petition, signed by at least one percent of the membership of the State Bar requesting the action, is filed with the executive director at least 30 days before the election ballots are to be mailed to the membership.

For purposes of electing directors or for the fulfillment of any other duty imposed on the State Bar by this Act or the State Bar Rules, the board shall from time to time reapportion the state into bar districts as conditions require, taking into account the purposes of the State Bar as defined in Section 3 of this Act. The reapportionment shall be subject to the Supreme Court's approval.

If any director should, as determined by the board of directors, become incapacitated from performing his duties as director, or if any director should be absent from any two consecutive regular meetings of the board of directors or from a total of four meetings, without cause deemed adequate by the board of directors, he may be removed by the board of directors at any regular meeting by resolution declaring his position vacant.

No board member or employee of the board shall be an employee or paid consultant of a trade association in the field of board interest.

(b) The executive director of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The executive director may be elected as many times as the board of directors may choose. The executive director shall be responsible for the execution of the policies and directives of the board with reference to all activities of the State Bar, except the activities that may be made the responsibility of the general counsel by this Act or by the board. The executive director shall perform all duties usually required of a corporate secretary, including other duties as may be assigned to him or her by the board of directors. The executive director shall also act as the treasurer of the State Bar and shall receive from the clerk of the Supreme Court funds of the State Bar as provided by this Act. In this regard, the executive director shall be audited annually as provided in Section 7(b) of this Act. The executive director shall maintain the membership files and supervise the administrative staff of the State Bar in preparing the annual budget. He or she shall be required to execute a corporate surety bond in such amount as the board may direct, conditioned on faithful performance of his or her duties, the premium for which shall be paid by the State Bar. The executive director shall have no vote on matters presented to the board of directors.

(c) The general counsel of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The general counsel may be reelected as many times as the board may choose. He or she shall be a member of the State Bar.

The duties of the general counsel shall include all of those duties usually expected of and performed by a general counsel. It shall be the duty of the general counsel to standardize throughout all grievance districts the procedure, method, and practice for the processing of grievance complaints. It shall also be the duty of the general counsel to receive and maintain on behalf of the State Bar the files and records of the grievance committees that pertain to discipline. The general counsel shall expedite and coordinate the State Bar's grievance duties which are made mandatory by this Act. The general counsel on request of any grievance committee may investigate and prosecute grievance actions as provided in Section 12 of this Act. The general counsel on request of any unauthorized practice of law committee or by a grievance committee may investigate and prosecute suits to enjoin members, nonlicensees, and nonmembers of the State Bar from the practice of law. The general counsel's duties shall also include those matters delegated from time to time by the board of directors of the State Bar.

The general counsel may not be a lobbyist registered with the secretary of state.

(d) The executive director and the general counsel of the State Bar shall be subject to the Texas conflict of interest law, Chapter 421, Acts of the 63rd

Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

(e) The executive director of the State Bar shall confer with the clerk of the Supreme Court as to the maintenance of correct membership files and in preparing the annual budget for review as provided in Section 7(a) of this Act. All membership fees shall be collected by the clerk of the Supreme Court and held by him or her until distributed to the State Bar for expenditure under the direction of the Supreme Court for the purpose of administering this Act.

The clerk of the Supreme Court, with the permission of the court, may employ a deputy to assist in discharging the duties imposed on him or her by this Act and any rules promulgated to administer this Act. The salary of the deputy shall be fixed by the board of directors and paid from the funds of the State Bar.

(f) All records of the State Bar, except for records pertaining to grievances and records pertaining to the Texas Board of Legal Specialization, shall be subject to the Texas Open Records Act, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 10. MEMBERSHIP; FEES. (a) All persons who are enrolled as members of the State Bar on the effective date of this Act and any person who after the effective date of this Act shall be licensed to practice law in this state, shall constitute and be members of the State Bar, and shall be subject to the provisions of this Act and the rules adopted by the Supreme Court of Texas. All persons not members of the State Bar are prohibited from practicing law in this state except that the Supreme Court may promulgate rules and regulations prescribing the procedure for limited practice of law by attorneys licensed in another jurisdiction, bona fide law students, or nonlicensed graduate students who are attending or have attended a law school approved by the Supreme Court.

(b) Every person who after the effective date of this Act becomes licensed to practice law in this state shall enroll in the State Bar by registering his or her name with the clerk of the Supreme Court within 10 days of his or her admission to practice. Membership of the State Bar shall consist of four classes: active, inactive, emeritus, and associate.

Every licensed member of the State Bar is an active member until he or she requests to be enrolled as an inactive member.

The class of "inactive members" shall include those persons who are eligible for active membership but are not engaged in the practice of law in this state and have filed with the executive director and the clerk of the Supreme Court written notice requesting enrollment in the class of inactive members.

Inactive members are not entitled to hold office or vote in any election conducted by the State Bar or practice law. Those who are enrolled as inactive members at their request may on application and payment of fees required become active members.

The class of "emeritus members" shall include those persons who are either active or inactive members in good standing but who are at least 70 years of age and have filed a written notice requesting enrollment in the class of emeritus members. An emeritus member shall enjoy all the privileges of membership in the State Bar and shall not be required to pay membership dues for the years following the year in which he or she attains the age of 70.

The class of "associate members" may include those persons who are enrolled in law school in this state. Enrollment as an associate member shall be voluntary on the part of the enrollee. Associate members are not entitled to hold office or vote in any election conducted by the State Bar or practice law, except as provided by rule promulgated by the Supreme Court. Dues for associate members shall be set by the board of directors.

(c) The Supreme Court is empowered and it shall be its duty to prescribe fees for members of the State Bar to be paid to the clerk of the court until distributed to the executive director as provided in Section 9(e) of this Act and expended by the board of directors under the direction of the Supreme Court for the purposes of administering this Act. Fees, except those fixed by the board for associate members, shall be prescribed in accordance with Section 8(a) and (b) rulemaking provisions of this Act. The fees shall be used exclusively for administering the public purposes provided by this Act.

Sec. 11. EXCLUSIVE JURISDICTION OF SUPREME COURT. Rules and regulations governing the admission to the practice of law shall be within the exclusive jurisdiction of the Supreme Court. The officers and directors of the State Bar of Texas have no authority to approve or disapprove of any rule or regulation which governs admissions to the practice of law nor to regulate or administer said admissions standards.

Sec. 12. DISCIPLINE. (a) Any attorney admitted to practice in this state and any attorney specially admitted by a court of this state for a particular proceeding is subject to the disciplinary jurisdiction of the Supreme Court of Texas and its administrative agent, the State Bar of Texas.

(b) In furtherance of the court's powers to supervise the conduct of attorneys at law, the following grievance procedures are established. The Supreme Court shall, in accordance with Section 8 of this Act, prepare, propose, and adopt rules and regulations for disciplining, suspending, disbarring, and accepting resignations of attorneys as it considers necessary in addition to the minimum standards and procedures provided in this Act.

(c) Disciplinary jurisdiction shall be divided into grievance districts. Each bar district shall have one or more grievance committee districts. The board of directors, with the advice of the director of each bar district, shall determine whether the State Bar's grievance duties can be performed effectively by one committee for the entire bar district or whether the same should be divided into more than one grievance committee district. When a bar district contains more than one grievance committee, all the grievance committees within the district shall have concurrent jurisdiction of any complaint docketed by any of the committees within the district. The committee which originally dockets a complaint may, with the consent of another committee within the district, transfer a complaint to the other committee. The district director, in order to equalize the dockets, or for other good cause, may transfer complaints from one committee to another within the district.

(d) Each grievance committee shall consist of as many members as are deemed necessary by the board of directors for the expeditious transaction of its business.

(e) The president shall on recommendation of the director or directors for the district, appoint the members of the grievance committee. Each member of the committee shall be a resident of the grievance committee district for which he or she is appointed. Nothing in this Act shall be construed to preclude nonlawyers from being appointed to grievance committees, but not more than one-third of the total membership shall be nonlawyers.

Annually the committee shall select its own chairperson.

Sec. 13. POWERS OF GRIEVANCE COMMITTEES. (a) The grievance committee shall exercise the powers and perform the duties conferred on it by this Act as well as any other powers and duties imposed by rules or regulations promulgated as provided herein by the Supreme Court.

The grievance committee shall consider and investigate any alleged ground for discipline or alleged incapacity of any attorney called to its attention, or on its own motion and take action with respect thereto as shall be appropriate under the disciplinary rules in effect from time to time in this state.

(b) The committee shall maintain records of all matters processed and the disposition thereof. Committee records are confidential and are not subject to the Open Records Law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes). The final action of a committee resulting in a vote to publicly reprimand, suspend, or seek disbarment shall be made public; provided, however, that proceedings which result in a private reprimand shall remain confidential. Nothing shall prohibit the committee, with the consent of the accused attorney, from disclosing final action which clears the attorney of misconduct or which finds no jurisdiction or lack of probable cause to proceed. All records shall be forwarded to the general counsel and he shall maintain a permanent record of such actions, which will be public records for statistical purposes but which are subject to the provisions above concerning privacy.

(c) A "complaint" is defined as an allegation of attorney misconduct or attorney mental incompetency which, if established in fact, could subject the attorney to disciplinary action. Inquiries which do not allege an offense cognizable under the Code of Professional Responsibility or under this Act or which do not show probable cause of professional misconduct shall not be classified as complaints and are not within the disciplinary jurisdiction of the grievance committee.

(d) Every inquiry which the committee determines to be a complaint, as defined in this Act, shall be docketed by the grievance committee. When docketed, the committee shall notify the general counsel of the State Bar, the complainant, and the accused attorney that the complaint has been scheduled for action by the committee, and the committee shall report periodically to the general counsel its progress in the matter.

(e) Every complaint, as defined in this Act, shall be acted on expeditiously by the grievance committee and the action shall be reported to the general counsel, the complainant, and the accused attorney. If the committee fails to take action on a complaint within a reasonable time, the general counsel shall report the committee's inaction to the president of the State Bar and the director or directors for the bar district which encompasses the grievance committee.

When notified by the general counsel of a committee's inaction, the president of the State Bar, with the advice of the board director for the district concerned, may transfer the complaint to another grievance committee in the bar district if there is one. The president may discharge a committee and appoint new members if, after consulting the board director for the district concerned, the president determines that the committee should be reconstituted to assure the expeditious transaction of disciplinary business. Failure to report grievance matters to the general counsel shall be grounds for the discharge of a committee.

Sec. 14. GRIEVANCE OVERSIGHT COMMITTEE. There shall be created a grievance oversight committee which shall be responsible for reviewing the structure, function, and effectiveness of the grievance procedures which are implemented pursuant to this Act. It shall be composed of nine members to be appointed by the Supreme Court, six of whom shall be licensed members of the State Bar and three of whom shall not be licensed members of the State Bar of Texas. Of the six licensed members of the State Bar, three shall be members or former members of grievance committees. This committee shall report its findings annually to the Supreme Court, including any recommendations concerning needed changes in grievance procedures or structures.

The members of this committee shall serve staggered terms of three years each and the initial terms of office of the committee shall be as follows: three members for a term of one year, three members for a term of two years, and three members for a term of three years. The Supreme Court shall designate a

chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar.

Sec. 15. DISBARMENT PROCEEDINGS. (a) The Supreme Court of Texas shall not adopt or promulgate any rule or regulation abrogating the right of trial by jury to either party to a disbarment action in the county of the residence of the accused attorney.

(b) Disbarment proceedings shall be instituted against a resident attorney in a district court located in the county of the attorney's residence; provided, however, that the accused attorney may make application for change of venue pursuant to Texas Rule of Civil Procedure 257. Nothing in this Act shall be construed to prohibit a grievance committee from investigating complaints of professional misconduct alleged to have occurred within the geographical area served by the committee, but any action must be filed in the county of that attorney's residence.

(c) All nonresident attorneys licensed by the Supreme Court are subject to the disciplinary rules and regulations governing resident members of the State Bar; provided, however, that venue in disbarment proceedings against nonresident members of the State Bar shall be in a district court located in Travis County, Texas, or in any county where the alleged misconduct occurred.

Sec. 16. DISCIPLINARY PROCEEDINGS. (a) No attorney shall be suspended from practice, except by the attorney's concurrence under an order of suspension entered by the grievance committee, until such attorney has been convicted of the charge or charges for disbarment pending against him or her in a court of competent jurisdiction. Provided, however, that on proof of conviction of an attorney in any trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation. On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter a judgment disbarring him or her.

Either the grievance committee for the bar district or the general counsel shall have the authority to seek the enforcement of this section.

(b) In any action seeking to disbar an attorney for acts made the basis of a conviction for a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, a fraudulent misappropriation of money or other property, the record of conviction shall be conclusive evidence of the guilt of the attorney for the crime of which he or she was convicted.

(c) Nothing in this Act shall be construed to prevent an attorney from being prosecuted in a disciplinary action after conviction for a criminal act based either on the weight of the conviction or on conduct by the attorney which led to his or her conviction.

Sec. 17. COMMITTEES AND SECTIONS. The board shall create from time to time committees and sections as it considers advisable and necessary to carry out the purposes of this Act. Nothing in this Act shall prevent the appointment of nonlawyers to the State Bar committees.

Sec. 18. COMMITTEE ON PROFESSIONAL ETHICS. (a) A professional ethics committee consisting of nine members of the State Bar to be appointed by the Supreme Court for a term of three years each is established. The initial terms of office of the committee shall be as follows: three members for terms of one year, three members for terms of two years, and three members for terms of three years. The Supreme Court shall designate a chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar. Nothing in this Act shall prevent the court from appointing members of the judicial department to the professional ethics committee.

(b) The standing committee on professional ethics shall:

(1) by the concurrence of a quorum of its members, express its opinion on the propriety of professional conduct, either on its own initiative or when requested to do so by a member of the State Bar of Texas, except that an opinion may not be issued on a question that is pending before a court of this state;

(2) the foregoing provision notwithstanding, the committee may meet in three member panels to express its opinion on behalf of the whole committee; provided, however, if the inquirer is dissatisfied with the panel's opinion, he or she may appeal it to the full committee for review;

(3) periodically publish its issued opinions to the legal profession in summary or complete form and on request provide copies of the opinions to members of the bar or public;

(4) on request advise or otherwise assist State Bar committees or local bar associations relating to the Code of Professional Responsibility;

(5) recommend appropriate amendments or clarifications of the Code of Professional Responsibility, if it considers them advisable; and

(6) adopt such rules as it considers appropriate relating to the procedures to be used in expressing opinions, effective when approved by the Supreme Court. Insofar as it is possible to do so, the committee shall disclose the rationale for its opinion and shall indicate whether it is based on ethical considerations or upon the disciplinary rules.

Opinions of the committee shall not be binding on the Supreme Court.

Sec. 19. UNAUTHORIZED PRACTICE OF LAW. (a) For purposes of this Act, the practice of law embraces the preparation of pleadings and other papers incident to actions of special proceedings and the management of the actions and proceedings on behalf of clients before judges in courts as well as services rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined. This definition is not exclusive and does not deprive the judicial branch of the power and authority both under this Act and the adjudicated cases to determine whether other services and acts not enumerated in this Act may constitute the practice of law.

(b) The Supreme Court shall appoint an unauthorized practice of law committee for the State Bar to consist of nine members, three of whom shall be nonlawyers. Except as provided in this Act, members of the committee shall serve for a term of three years beginning with the effective date of this Act. All members of the committee shall be eligible for reappointment. The court shall designate each year which member shall act as chairperson. A majority of the committee shall constitute a quorum. All necessary and actual expenses of the committee should be provided for and paid out of the budget of the State Bar.

The court in making the first appointments shall appoint three members to serve an initial term of one year, three members to serve an initial term of two years, and three members to serve an initial term of three years. Thereafter, each appointed member shall serve a term of three years.

The unauthorized practice of law committee shall keep the court and the State Bar informed with respect to the unauthorized practice of law by lay persons and lay agencies and the participation of attorneys therein and concerning methods for the prevention thereof. The committee shall seek the elimination of the unauthorized practice by action and methods as may be appropriate for that purpose, including the filing of suits in the name of the committee. Nothing in this Act shall prohibit the establishment of local Unauthorized Practice of Law committees to aid and assist this committee in carrying out its purpose.

Sec. 20. CARRY-OVER CLAUSE. (a) All rules and regulations adopted and promulgated by the Supreme Court relating to the State Bar which are in force on the effective date of this Act shall constitute the rules governing the State Bar of Texas until and unless amended pursuant to Section 8 of this Act.

The foregoing provision notwithstanding, any rules and regulations which are in force on the effective date of this Act and which are in conflict with the provisions of this Act are repealed to the extent of the conflict.

(b) The officers and directors of the State Bar who have been elected and are serving on the effective date of this Act shall continue in office for the balance of their term.

(c) All dues and fees assessed and in effect on the effective date of this Act shall remain in force and effect until and unless amended pursuant to Section 8 of this Act.

(d) All bonds, notes, debentures, evidence of indebtedness, mortgage, deeds of trust, assignment, pledge, contract, lease, agreement, or other contractual obligation owed to or by the State Bar of Texas on the effective date of this Act shall remain in force and effect in accordance with the terms of the obligation.

Sec. 21. The State Bar is subject to the Texas Sunset Act, and unless continued in existence as provided by that Act the State Bar is abolished, and this Act expires effective September 1, 1991.

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

The Conference Committee Report was read and adopted by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Mauzy.

CONFERENCE COMMITTEE REPORT SENATE BILL 384

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 384** have met and 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.

HARRIS
SANTIESTEBAN
MOORE
CREIGHTON
On the part of the Senate

LEWIS
EVANS
EZZELL
BODE
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of cosmetologists; providing penalties.

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

SECTION 1. Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 8451a, Vernon's Texas Civil Statutes), is revised to read as follows:

Sec. 1. DEFINITIONS. As used in this Act:

(1) "Person" means any individual, association, firm, corporation, partnership, or organization.

(2) "Commission" means the Texas Cosmetology Commission.

(3) "Cosmetology" means the performing or doing, or offering or attempting to do or perform for compensation, any of the following acts, services, works, treatments, or undertakings:

(A) arranging, beautifying, bleaching, tinting, cleansing, coloring, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, waving, or otherwise treating the hair as primary services, treatments, or undertaking by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services; cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in this subdivision, or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner;

(B) cleansing, stimulating, or massaging the scalp, face, neck, or arms by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; beautifying the face, neck, or arms by use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;

(C) removing superfluous hair from the body by the use of depilatories or mechanical tweezers;

(D) cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person; or attaching false nails or massaging, cleansing, treating, or beautifying the hands or feet of any person;

(E) servicing a wig or artificial hairpiece either on a human head or on a block subsequent to the initial retail sale and servicing by any of the practices enumerated in Paragraph (A) of this subdivision;

(F) administering facial treatments;

(G) hair weaving; or

(H) shampooing and conditioning hair.

(4) "Public school" includes a public high school, public junior college, or any other nonprofit tax-exempt institution conducting a cosmetology program.

Sec. 2. TEXAS COSMETOLOGY COMMISSION. (a) The Texas Cosmetology Commission is created. The commission shall be composed of one member holding a valid beauty shop license who has no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school; one member holding a valid private beauty culture school license who has no direct or indirect affiliation with or interest, financial or otherwise, in a beauty shop; two members holding valid operator licenses who have no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school or beauty shop; and two members of the general public who are not licensees under this Act and who have no direct or indirect affiliation with or interest, financial or otherwise, in any facet of the beauty industry. The associate commissioner for occupational education and technology of the Central Education Agency or his authorized representative shall as part of his duties serve as an ex officio member of the commission with voting privileges. Members shall be appointed without consideration of race, color, religion, sex, or national origin.

(b) To qualify as a member, a person must be a citizen of the United States and a resident of Texas at least 25 years of age, must be actively engaged in the area that the person represents for a period of five years immediately preceding appointment.

(c) The members of the commission shall be appointed by the governor with the advice and consent of the senate. Members of the commission hold office for staggered terms of six years, with two members' terms expiring on December 31 of each odd-numbered year. No person may serve more than two consecutive terms.

(d) Each appointee to the commission shall qualify by taking the constitutional oath of office within 15 days from the date of his appointment. On presentation of the oath, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members of the commission.

(e) Each member of the commission shall be present for at least one-half of the regularly scheduled commission meetings held each year. Failure of a commission member to meet this requirement automatically removes the member from the commission and creates a vacancy on the commission.

(f) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

(g) The Texas Cosmetology Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by the Act, the commission is abolished and this Act expires effective September 1, 1991.

(h) The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 3. COMMISSION ORGANIZATION AND MEETINGS. (a) The commission shall elect from its members for a term of two years a chairman and may appoint committees that it considers necessary to carry out its duties.

(b) The commission shall meet at least once each year. The commission may meet at other times at the call of the chairman or as provided by commission rule.

(c) The quorum for any meeting of the commission is four members. No action by the commission or its members has any effect unless a quorum is present.

Sec. 4. POWERS AND DUTIES OF THE COMMISSION. (a) The commission may issue rules consistent with this Act after a public hearing in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, transmit to the commission statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the commission receives the committees' statements.

(b) The commission shall prescribe the minimum curricula of the subjects and hours of each to be taught by beauty culture schools.

(c) The commission shall prescribe the method and content of the examinations administered under this Act. The examination shall include practical examinations as well as theory tests relating to the subject matter established as curricula by the commission.

(d) The commission shall establish sanitation rules designed to prevent the spread of infectious or contagious diseases.

Sec. 5. COMPENSATION. (a) Members of the commission are entitled to receive $25 a day and reimbursement for actual travel expenses incurred in performing the duties of their office. Per diem compensation may not exceed 30 days in any fiscal year for each member.

(b) The compensation of other employees of the commission is as set by the General Appropriations Act.

Sec. 6. EXECUTIVE DIRECTOR; STAFF. (a) The commission may employ an executive director who is the executive head of the commission and performs its administrative duties.

(b) The executive director may employ staff members necessary for administering the functions of the commission. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the commission or serve as a member of the commission.

(c) The commission may employ directors at its discretion.

Sec. 7. CONFLICT OF INTEREST. (a) An employee of the commission whose duties include the administration of the commission's functions under this Act may not:

(1) have, other than as a consumer, a financial interest in the cosmetology industry;

(2) be an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(b) A member of the commission may not be:

(1) an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(2) related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(c) An employee who violates this section is subject to dismissal. A member who violates this section is subject to removal.

Sec. 8. DISPOSITION OF FUNDS. (a) The executive director shall remit, on or before the 10th day of each month, to the state treasurer all fees collected under this Act during the preceding month for deposit in the General Revenue Fund.

(b) On August 31 of each year, the commission shall file with the comptroller its annual report in a form required by the comptroller.

(c) Funds for the administration of this Act are to be provided by the General Appropriations Act.

Sec. 9. PROHIBITED ACTS. (a) A person may not perform or attempt to perform any practice of cosmetology without first obtaining a license or certificate to perform that practice.

(b) A person may not conduct or operate a beauty shop, beauty culture school, specialty shop, or any other place of business in which the practice of cosmetology is taught or practiced without first obtaining a license.

(c) A person may not instruct in the art of cosmetology unless he holds an instructor license from this state and the instruction is done in a private beauty culture school or public school cosmetology program.

Sec. 10. OPERATOR LICENSE. (a) A person holding an operator license may perform any practice of cosmetology defined in Subdivision (3), Section 1, of this Act.

(b) An applicant for an operator license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 1,500 hours of instruction in a licensed beauty culture school or 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the commission in a public school vocational program.

(c) The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an operator license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $15 license fee, and has not committed an act that constitutes a ground for denial of a license.

Sec. 11. MANICURIST LICENSE. (a) A person holding a manicurist license may perform only the practice of cosmetology defined in Paragraph (D), Subdivision (3), Section 1 of this Act.

(b) An applicant for a manicurist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 150 hours of instruction in manicuring.

(c) The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to a manicurist license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $10 license fee, and has not committed an act that constitutes a ground for denial of a license.

Sec. 12. INSTRUCTOR LICENSE. (a) A person holding an instructor license may perform any practice of cosmetology and may instruct a person in any practice of cosmetology as defined by this Act.

(b) An applicant for an instructor license must be at least 18 years of age, have completed the 12th grade or its equivalent, have a valid operator license, and have completed a six-month course consisting of 750 hours of instruction in cosmetology courses and methods of teaching in a licensed beauty culture school or in a vocational training program of a publicly financed postsecondary institution or at least three years of verifiable experience as an operator under a license from the Texas Cosmetology Commission.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an instructor license if he possesses qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $35 license fee, and has not committed an act that constitutes a ground for denial of a license.

Sec. 13. SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology as defined in Paragraph (E), (F), (G), or (H) of Subdivision (3) of Section 1 of this Act.

(b) An applicant for a specialty certificate must be at least 16 years of age, have completed the seventh grade or its equivalent, and have the necessary requisites as determined by the commission in the particular specialty in which certification is sought.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for examination.

(d) The applicant is entitled to a specialty certificate if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $15 certificate fee, and has not committed an act that constitutes a ground for denial of a certificate.

(e) Subsection (a) of this section does not apply to an individual who has an instructor license or operator license issued by the commission.

Sec. 14. GRANDFATHER CLAUSE. (a) On the effective date of this Act any person holding a specialty license issued by the commission may, before the expiration date of that license, receive an equivalent certificate by complying with the following guidelines:

(1) sending the renewal portion of the specialty license to the commission along with a valid health certificate; and

(2) paying a one time $15 certification fee.

(b) On the effective date of this Act, any person holding a wig instructor or wig school license may continue to renew that license indefinitely by paying a $35 or $55 fee, respectively, every two years.

Sec. 15. TEMPORARY LICENSE. (a) A person holding a temporary license may perform any practice of cosmetology for which he holds a valid license in another state or nation.

(b) A temporary license shall be issued on submission of an application form prescribed by the commission and payment of a $25 temporary license fee if the applicant meets the requirements of Subsection (a) of this section.

(c) A temporary license expires on the 60th day after the date of issue and may not be renewed.

(d) A person is not required to hold a temporary license to engage in the practice of cosmetology for educational or demonstration purposes at seminars, trade shows, or conventions.

Sec. 16. DUPLICATE LICENSE OR CERTIFICATE. A duplicate license or certificate shall be issued upon application on a form prescribed by the commission and on the payment of a $5 fee.

Sec. 17. RECIPROCAL CERTIFICATES OR LICENSES. (a) Any person who holds a valid license or certificate from another state or nation that has substantially equivalent standards or work experience may apply for a license or certificate to perform the same practice in this state.

(b) The applicant shall submit an application on a form prescribed by the commission and pay a $25 fee.

(c) A license or certificate granted under this section allows the holder to engage in the practice of cosmetology stated on the front of the license or certificate. The holder of this license or certificate is subject to the renewal procedures and fees provided in this Act for the practice of cosmetology for which he is licensed.

Sec. 18. STUDENT PERMITS. (a) Any student enrolled in a school of cosmetology in this state shall be required to have a permit stating the student's name and the name of the school he is attending. The permit shall be displayed in a reasonable manner at the school.

(b) A student permit shall be issued on submission of an application form prescribed by the commission and payment of a $10 fee which must accompany the application.

(c) The cost of the permit shall also include the examination and transcript fee and may not be refunded.

Sec. 19. BEAUTY SHOP LICENSE. (a) A person holding a beauty shop license may maintain an establishment in which any practice of cosmetology is performed.

(b) An applicant for a beauty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a beauty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a beauty shop license if the application shows compliance with the rules of the commission, a $25 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology, and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1980:

(1) a person licensed by the barber board may practice barbering only at a location for which the board has issued a barber shop permit, barber school or college permit, or any other permit. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the board may not adopt rules restricting or prohibiting the practice by a Class A barber in the facility; and

(2) a person licensed by the cosmetology commission may practice cosmetology only at a location for which the commission has issued a beauty shop license, private beauty culture school license, or any other license. If the

State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the commission may not adopt rules restricting or prohibiting the practice by a cosmetologist in the facility.

(e) If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the agencies may not adopt rules requiring:

(1) that the work areas of barbers and cosmetologists practicing in the facility be separated;

(2) that the waiting areas for customers of the barbers and cosmetologists practicing in the facility be separated;

(3) that the facility have separate restrooms for the barbers or cosmetologists practicing in the facility or for the customers of the barbers and cosmetologists; or

(4) that the barbers and cosmetologists practicing in the facility or the customers of the barbers and cosmetologists be treated separately from each other in any similar manner.

Sec. 20. SPECIALTY SHOP LICENSE. (a) A person holding a specialty shop license may maintain an establishment in which only the practice of cosmetology as defined in Paragraph (D), (E), (F), or (G) of Subdivision (3) of Section 1 of this Act is performed.

(b) An applicant for a specialty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a specialty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a specialty shop license if the application shows compliance with the rules and regulations of the commission, a $25 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) Subsection (b) of this section does not apply to a shop operated under a beauty shop license issued by the commission.

Sec. 21. PRIVATE BEAUTY CULTURE SCHOOL LICENSE. (a) A person holding a private beauty culture school license may maintain an establishment in which any practice of cosmetology is taught.

(b) An applicant for a private beauty culture school license must submit an application on a form prescribed by the commission. Each application must be verified by the applicant and must contain:

(1) a detailed floor plan of the school building divided into three separate areas, one for instruction in theory, one for practice work of senior students, and one for practice work of juniors; and

(2) a statement that the building is fireproof and of permanent type construction, contains a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students, and contains or will contain before classes commence the equipment established by rule of the commission as sufficient to properly instruct a minimum of 50 students.

(c) Each applicant shall furnish a good and sufficient surety bond payable to the State of Texas in the amount of $5,000. The bond must be conditioned to refund any unused portion of the tuition paid if the school closes or ceases operation before the courses of instruction have been completed.

(d) A student is entitled to a pro rata refund of tuition if the student becomes physically unable to complete the courses of instruction.

(e) Each application must be accompanied by payment of a $250 license fee.

(f) The facilities of each applicant shall be inspected. The applicant is entitled to a private beauty culture school license if the inspection shows that this Act and the rules of the commission have been met and the applicant has not committed an act that constitutes a ground for denial of a license.

Sec. 22. PRIVATE BEAUTY CULTURE SCHOOLS. A private beauty culture school shall:

(1) maintain a sanitary establishment;

(2) maintain on its staff and on duty during business hours not less than two full-time instructors licensed under this Act, except that one instructor will be sufficient whenever the student enrollment drops below 15;

(3) maintain a daily record of attendance of students;

(4) establish regular class and instruction hours and grades, and hold examinations before issuing diplomas;

(5) require a school term of not less than nine months and not less than 1,500 hours instruction for a complete course in cosmetology;

(6) require a school term of not less than four weeks and not less than 150 hours instruction for a complete course in manicuring;

(7) require no student to work or be instructed or receive credit for more than eight hours of instruction in any one day or for more than six days in any one calendar week;

(8) maintain a copy of its curriculum in a conspicuous place and verify that this curriculum is being followed as to subject matter being taught; and

(9) submit to the executive director the name of each student within 10 days after enrollment in the school and notify the executive director of the withdrawal or graduation of a student within 10 days of the withdrawal or graduation.

Sec. 23. TRANSFER OF HOURS OF INSTRUCTION. Any student of a private beauty culture school or a vocational cosmetology program in a public school may transfer completed hours of instruction to a private beauty culture school or vocational cosmetology program in a public school in this state. A transcript showing the number and courses of completed hours certified by the school in which the instruction was given must be submitted to the executive director. On evaluation and approval, the executive director shall certify in writing to the student and to the school to which the student desires a transfer that the stated hours and courses have been successfully completed and that the student is not required to repeat the instructions.

Sec. 24. STUDENT WORK ON PATRONS. (a) No school may receive compensation for work done by any student who has not completed 10 percent of the required number of hours for a license as provided by this Act.

(b) Each school shall maintain in a conspicuous place a list of the names and identifying pictures of the students who are enrolled in cosmetology courses.

(c) Any school violating this section is subject to revocation or suspension of its license.

Sec. 25. PRIVATE BEAUTY CULTURE SCHOOLS AND BEAUTY SHOPS. Private beauty culture schools, beauty shops, or specialty shops may not be conducted in the same quarters or on the same premises unless they are separated by walls of permanent construction with no openings in them.

Sec. 26. EMPLOYMENT OF LICENSEES. (a) A beauty culture school may not employ a person holding an operator, manicurist, or specialty certificate solely to perform the practices of cosmetology for which the person is licensed or employ a person holding an instructor license to perform any acts or practices of cosmetology.

(b) A licensee may not operate a beauty salon unless it is at all times under the direct supervision of a person holding an operator license or instructor license. A licensee or certificate holder may not operate a specialty shop unless it is at all times under the direct supervision of an operator, instructor, or specialty certificate holder.

(c) A person holding a beauty shop or specialty shop license may not employ a person as an operator or specialist who has not first obtained a license or certificate under this Act or who has not first obtained a license or certificate under the law regulating barbers.

Sec. 27. DISPLAY OF LICENSE. Every holder of a license or certificate issued under this Act shall display the license or certificate in his place of business or employment.

Sec. 28. CONSUMER INFORMATION. There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that complaints against licensees can be directed to the regulatory board.

Sec. 29. RIGHT OF ACCESS. The commission, an inspector, or any duly authorized representative of the commission may enter the premises of any licensee at any time during normal business hours and in such manner as not to interfere with the conduct or operation of the business or school to determine whether or not the licensee is in compliance with this Act and the rules of the commission.

Sec. 30. EXAMINATIONS. Examinations shall be conducted beginning the first of each month unless it is a legal holiday, in which case the examination shall begin on the following day. The site of the examinations shall be announced at least six months prior to the administration date. Examinations may not be conducted in the schools of commission members. Not later than the 30th day after the day on which a person completes an examination administered by the commission, the commission shall send to the person his examination results. If requested in writing by a person who fails the examination, the commission shall send to the person not later than the 60th day after the day on which the request is received by the commission an analysis of the person's performance on the examination.

Sec. 31. HEALTH CERTIFICATE. (a) Every applicant for an original or renewal operator, instructor license, reciprocal license, or specialty certificate must submit a certificate of health signed by a licensed physician, showing that the applicant is free from any contagious disease as determined by an examination that included a tuberculosis test.

(b) Any physician who signs a health certificate required by Subsection (a) of this section showing the applicant to be free from any contagious disease without having made the physical examination is guilty of a misdemeanor, and on conviction may be fined not less than $50 or more than $200.

Sec. 32. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A person holding an operator, instructor, or specialty certificate may not perform any practice of cosmetology knowing that he is suffering from an infectious or contagious disease.

(b) A person holding a beauty or specialty shop license or a beauty culture school license may not employ any person to perform any practice or practices of cosmetology knowing that the licensee is suffering from an infectious or contagious disease.

Sec. 33. RENEWAL OF LICENSES AND CERTIFICATES. (a) Except as provided by Subsection (d) of this section, all licenses and certificates issued under this Act, except temporary and private beauty culture school licenses, expire two years from the date of issue.

(b) Applications for renewal of a specialty certificate must be accompanied by a current health certificate.

(c) A renewal license shall be issued on payment of the renewal fee as established by this Act.

(d) All licenses and certificates issued by the commission may be prorated for the number of months the license or certificate will be valid.

(e) A license that has been expired for less than five years may be renewed. A renewal license shall be issued on submission of a completed application form prescribed by the commission and payment of the renewal fee established by this Act for each year the license was expired, plus a $5 delinquency fee.

(f) An applicant for renewal of a license that has been expired for more than five years shall be issued a license on submission of an application, payment of the examination fee, satisfactory completion of the examination, and payment of a $25 reinstatement fee.

Sec. 34. RENEWAL FEES. Renewal fees under this Act are:

(1)	Operator license	$ 15;
(2)	Instructor license	$ 35;
(3)	Manicurist license	$ 15;
(4)	Private beauty school license	$150 per year; and
(5)	Beauty or specialty shop license	$ 25.

Sec. 35. VIOLATION. (a) If an inspector discovers a violation of this Act or of a rule established by the commission, he shall give written notice of the violation on a form prescribed by the commission to the violator, and if the violation is not corrected in 10 days from the date of notice, the inspector shall file a complaint with the executive director.

(b) If a licensee commits three or more violations of a similar nature within any 12-month period, a suit for injunction and proceedings for suspension or revocation of the license shall be instituted.

Sec. 36. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF A PERMIT. A license or certificate may be denied, or after a hearing, suspended or revoked if the applicant or licensee has:

(1) secured a license or certificate by fraud or deceit;

(2) violated or conspired to violate this Act or a rule issued under this Act;

(3) knowingly made false or misleading statements in any advertising of the licensee's services;

(4) advertised, practiced, or attempted to practice under the name or trade name of another licensee under this Act; or

(5) engaged in gross malpractice in practicing cosmetology.

Sec. 37. APPLICATION OF THE ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. (a) A person whose application for a license, certificate, or permit is denied is entitled to a hearing before the commission in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), if the person submits to the commission a written request for a hearing.

(b) Proceedings for suspension or revocation of a license or certificate and appeals from these proceedings are governed by the Administrative Procedure and Texas Register Act, as amended.

Sec. 38. INJUNCTION. The commission may sue in district court to enjoin or restrain a person from violating any section of this Act or the commission rules.

Sec. 39. EXEMPTIONS. The following are exempt from the provisions of this Act:

(1) service in the case of emergency;

(2) persons licensed in this state to practice medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or nurses;

(3) a person engaged in the business of or receiving compensation for makeup applications only; and

(4) a person who acts as a barber regulated by the law of this state if the person does not hold himself out as a cosmetologist.

Sec. 40. PENALTIES. (a) Any person who violates this Act, except Section 31 of this Act, is guilty of a misdemeanor, and on conviction is punishable by a fine of not less than $25 nor more than $200.

(b) A licensee or certificate holder who violates this Act is guilty of a misdemeanor and on conviction is punishable under Subsection (a) of this section and is subject to the revocation or suspension of his license or certificate.

Sec. 41. COMPLAINTS. (a) The commission shall keep an information file about each complaint filed with the commission relating to a cosmetologist or cosmetology establishment.

(b) If a written complaint is filed with the commission relating to a cosmetologist or cosmetology establishment, the commission, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

SECTION 2. A person holding office as a member of the Texas Cosmetology Commission on the effective date of this Act continues to hold office for the term for which the member was originally appointed.

SECTION 3. Any law, section, or provision relating to creation, powers, duties, or functions of the Texas Cosmetology Commission which is not hereby expressly reenacted is hereby repealed.

SECTION 4. This Act takes effect September 1, 1979.

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

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

CONFERENCE COMMITTEE REPORT SENATE BILL 482

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 482** have met and 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.

HARRIS
SANTIESTEBAN
MOORE
CREIGHTON

On the part of the Senate

EZZELL
EVANS
LEWIS
BODE
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of barbers.

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

SECTION 1. Article 8402, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Art. 8402. (a) Every person, firm, or corporation owning, operating or managing a barber shop [~~or beauty parlor~~] shall register his full name and the location of said shop with the State Board of Barber Examiners. Each [~~or parlor in a book to be kept in the office of the State Board of Health for that purpose, and every~~] owner, operator or manager of a barber shop [~~or beauty parlor~~] that is first opened for business hereafter shall within three [~~five~~] days after the opening of such shop submit an application to the barber board for a barber shop permit [~~or parlor register in like manner. In event of a change in the manager or location of any such shop or parlor, the manager of same shall call at or communicate by mail with said board within five days after such change takes place and inform said board thereof~~].

(b) In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1980: [~~1976,~~]

(1) a [~~no~~] person licensed by the barber board may practice barbering only at a location for which the board has issued a barber shop permit, barber school or college permit, or any other permit. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the board may not adopt rules restricting or prohibiting the practice by a Class A barber in the facility; [~~shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any beauty parlor, beauty salon, specialty salon, beauty culture school or college, or any location under the jurisdiction of the Texas Cosmetology Commission,~~] and

(2) a [~~no~~] person licensed by the cosmetology commission may practice cosmetology only at a location for which the commission has issued a beauty shop license, private beauty culture school license, or any other license. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the commission may not adopt rules restricting or prohibiting the practice by a cosmetologist in the facility [~~shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any barber shop, specialty shop, barber school or college, or any location under the jurisdiction of the State Board of Barber Examiners. In order~~

~~that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1976, no person licensed by the barber board shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any beauty parlor, beauty salon, specialty salon, beauty culture school or college, or any location under the jurisdiction of the Texas Cosmetology Commission, and no person licensed by the cosmetology commission shall perform, offer, or attempt to perform any act, service, or treatment by authority of any such license on the premises of any barber shop, specialty shop, barber school or college, or any location under the jurisdiction of the State Board of Barber Examiners~~].

(c) If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the agencies may not adopt rules requiring:

(1) that the work areas of barbers and cosmetologists practicing in the facility be separated;

(2) that the waiting areas for customers of the barbers and cosmetologists practicing in the facility be separated;

(3) that the facility have separate restrooms for the barbers or cosmetologists practicing in the facility or for the customers of the barbers and cosmetologists; or

(4) that the barbers and cosmetologists practicing in the facility or the customers of the barbers and cosmetologists be treated separately from each other in any similar manner.

(d) There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that complaints against licensees can be directed to the regulatory board.

SECTION 2. Sections 26 and 26a, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 26. (a) The State Board of Barber Examiners is hereby created and shall consist of six members appointed by the governor with the advice and consent of the senate. The board shall be composed of the following: two members shall be Class A barbers actually and actively engaged in the practice of barbering for at least five years prior to being appointed and while serving as members [~~a member~~] of the board and who are not holders of a barber shop permit issued by the board; one member [~~two members~~] shall be a barber shop owner [~~owners~~] holding a permit issued by the board and who is [~~are~~] actively and actually engaged in the practice of barbering for at least five years prior to being appointed and while serving as a member of the board; one member [~~two members~~] shall be a person [~~persons~~] holding a permit from the board to conduct or operate a barber school or college; and two members shall be representatives of the general public who are not regulated under this Act and who do not have, other than as consumers, any financial interests in barbering. The [~~provided, however, that the three members of the board serving at the time this Act takes effect shall continue to serve for the terms of office to which they were~~

~~appointed. Within 30 days after the effective date of this Act the governor shall appoint three additional members and at the time of appointment designate one appointee to serve for the same remaining period of time in office as each of the three members then serving so that hereafter the~~] terms of office shall be for six years with terms for two of the six board members expiring at the same time every two years[~~, and so as to at all times have on the board two working barbers, two shop owners working barbers, and two school owners as hereinabove provided~~]. All members appointed by the governor to fill vacancies in the board caused by death, resignation, or removal shall serve during the unexpired term of such member's predecessor. Before entering upon the duties of office, each member of the board shall take the constitutional oath of office and file it with the secretary of state. Members of the board may be removed from office for cause in the manner provided by the statutes of this state for public officials who are not subject to impeachment. In case of death, resignation, or removal, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

(b) A person holding office as a member of the State Board of Barber Examiners on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(c) The governor shall appoint two public members to fill the offices of the two incumbent members whose terms expire on May 19, 1981. The governor shall appoint a barber shop owner and a barber school owner to fill the offices of the incumbent members whose terms expire on May 19, 1983. The governor shall appoint two Class A barbers to fill the offices of the two incumbent members whose terms expire on May 19, 1985.

(d) The terms of office for the appointees who fill the offices of incumbent members whose terms expire May 19, 1981, May 19, 1983, and May 19, 1985, shall expire on January 31, 1987, January 31, 1989, and January 31, 1991, respectively.

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

(f) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

Sec. 26a. The State Board of Barber Examiners is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 [~~1979~~].

SECTION 3. Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended by adding Sections 29A, 29B, 29C, and 29D to read as follows:

Sec. 29A. (a) The State Board of Barber Examiners shall keep an information file about each complaint filed with the board relating to licensees under this Act.

(b) If a written complaint is filed with the State Board of Barber Examiners relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

Sec. 29B. (a) An employee of the State Board of Barber Examiners whose duties include the administration of the board's functions under this Act may not:

(1) have, other than as a consumer, a financial interest in barbering;

(2) be an officer, employee, or paid consultant of a trade association in the barbering industry; or

(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.

(b) A member of the State Board of Barber Examiners may not be:

(1) an officer, employee, or paid consultant of a trade association in the barbering industry;

(2) related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.

(c) An employee who violates this section is subject to dismissal. A board member who violates this section is subject to removal.

Sec. 29C. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 29D. A general counsel employed by the board or a member of the board may not lobby for the board and may not engage in conduct for which the person is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes).

SECTION 4. Section 11, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. (a) The Board shall conduct examination of applicants for certificates of registration to practice as Class A registered barbers and of applicants .o enter barber schools to determine their educational fitness, not less than four times each year, at such times and places as the Board may determine and designate. The examination of applicants for certificates of registration as Class A registered barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the Board.

(b) No examination shall be held at a barber school, college, or shop owned, managed, or operated by a member of the State Board of Barber Examiners.

SECTION 5. Section 10, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended by adding Subsections (d) and (e) to read as follows:

(d) Not later than the 30th day after the day on which a person completes an examination administered by the Board, the Board shall send to the person his examination results. If requested in writing by a person who fails the examination, the Board shall send to the person not later than the 30th day after the day on which the request is received by the Board an analysis of the person's performance on the examination.

(e) On a reciprocal basis with other states or countries, the Board may issue, without examination, a certificate, license, or permit to an applicant who has a corresponding certificate, license, or permit issued by another state or country having standards for the certificate, license, or permit that are at least substantially equivalent to those of this state and who pays the fee prescribed by this Act.

SECTION 6. Section 27, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 27. The State Board of Barber Examiners shall elect one of its members as president, and shall elect a secretary and such other employees, as

may be necessary, to carry out the provisions of this Act and House Bill No. 104, Chapter 65, Acts of the Forty-first Legislature, First Called Session, as amended, and provide for the compensation of such secretary and other employees. Said Board shall maintain its office in the State Office Building in the City of Austin, Texas, and shall adopt rules and regulations for the transaction of the business herein provided for, including a common seal for the authentication of its orders, certificates and records. The secretary shall keep a record of all proceedings of the Board and shall be the custodian of all such records and shall receive and receipt for all money collected by the Board. All money so received shall be immediately deposited with the State Treasurer, who shall credit same to a special fund to be known as 'State Board of Barber Examiners Fund,' which money shall be drawn from said special fund upon claims made therefor by the Board to the Comptroller; and if found correct, to be approved by him and vouchers issued therefor, and countersigned and paid by the State Treasurer, which special fund is hereby appropriated for the purpose of carrying out all the provisions of this Act. Annually at the close of business on August 31st of each year, a complete report of the business transaction by the Board showing all receipts and disbursements shall be made by the Board to the Governor of the State of Texas. The State Auditor shall audit the financial transactions of the Board at least once every two fiscal years.

The secretary shall give a surety bond, payable to the State of Texas in the sum of Five Thousand Dollars ($5,000), conditioned for the faithful performances of his duties as secretary, to be approved by the Board and filed with the State Comptroller. A majority of the Board in meetings duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The compensation of the members of the Board shall be a per diem as set by the General Appropriations Act, and in addition to the per diem provided for herein, they shall be entitled to traveling expenses in accordance with the appropriate provisions of the General Appropriations Act. Each Board member shall make out, under oath, a complete itemized statement of the number of days engaged and the amount of his expenses when presenting same for payment.

SECTION 7. Section 28, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 28. (a) The State Board of Health shall make, establish and promulgate reasonable sanitary rules and regulations for the conduct of barber shops and barber schools. The State Board of Barber Examiners, by and through the Health Department of the State of Texas, shall have authority, and it is made its duty to enter upon the premises of all barber shops, barber schools or any place where any of its licensees are practicing or performing any service, act or treatment by authority of any license issued by the board and inspect same at any time during business hours. A copy of such sanitary rules and regulations adopted by the Board of Health shall be furnished to the Secretary of the State Board of Barber Examiners who shall in turn forward to each barber, barber school or licensee of the board a copy of such rules and regulations. A copy of the sanitary rules and regulations promulgated and adopted by the State Board of Health shall be posted in barber shops and barber schools in this State. Subject only to the authority of the State Board of Health to make and promulgate reasonable rules and regulations as to sanitation, the State Board of Barber Examiners shall have full authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for all persons licensed or practicing under the provisions of this Act, and to regulate the practice and teaching of barbering in all of its particulars in keeping with the purposes and intent of this Act or to insure strict compliance with and enforcement of this Act.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(c) The violation by any licensee, permittee, or certificate holder of the board of any provisions of this Act or any rule, regulation, or order of the board shall be sufficient reason or ground to cancel, suspend, or revoke any license, certificate, permit, or authority issued under this Act. In addition to any other action, proceeding, or remedy authorized by law, the board shall have the authority to institute any action in its own name to enjoin any violation of any provision of this Act or rule or regulation of the board, and, in order for the board to sustain such action, it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of such cause. The board shall not be required to give any appeal bond in any cause arising under this Act. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of this Act.

SECTION 8. Article 8401, Revised Civil Statutes of Texas, 1925, as amended, is repealed.

SECTION 9. This Act takes effect on September 1, 1979.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT HOUSE BILL 1389

Senator Parker submitted the following Conference Commitee Report:

Austin, Texas
May 28, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **C.S.H.B. 1389** have met and 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.

PARKER
VALE
WILLIAMS
On the part of the Senate

CRAWFORD
DELCO
RAINS
HEATLY
RUDD
On the part of the House

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

CONFERENCE COMMITTEE REPORT HOUSE BILL 1626

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1626** have met and 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.

MAUZY
CREIGHTON
PARKER
KOTHMANN
On the part of the Senate

HEATLY
RUDD
BIRD
A. HILL
On the part of the House

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

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2229 by a vote of 106 Ayes, 22 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 296 adopted by a vote of 96 Ayes, 45 Noes.

H.C.R. 234 Congratulating John T. Potter on his retirement from the Texas Legislative Council

S.C.R. 94 Authorizing continuation of interagency contracting between Legislative Council and State Commission for the Blind.

S.C.R. 87 Requesting Departments of Human Resources and Health to conduct joint study of nursing staff manpower pools to determine impact on available manpower and cost of health care delivery.

S.C.R. 96 Creating a special Interim Study Committee on Early Childhood Intervention Services.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

PRESENTATION OF GUESTS

The President presented The Honorable William P. Clements, Jr., Governor of the State of Texas and Mrs. Clements to the Members of the Senate.

Governor Clements expressed his appreciation to the Senate for their efforts in the 66th Legislature.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1626.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1626 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **H.B. 1626.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Nays: Brooks, Vale.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1389.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1389 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **H.B. 1389.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Doggett, Harris, Jones of Harris, Jones of Taylor, Kothmann, McKnight, Meier, Moore, Parker, Patman, Price, Santiesteban, Snelson, Traeger, Vale, Williams.

Nays: Clower, Farabee, Howard, Longoria, Mauzy, Mengden, Ogg, Schwartz, Short, Truan.

HOUSE BILL 2255 ON SECOND READING

On motion of Senator Price and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2255, Relating to the creation of a juvenile board in each of the counties of Wheeler, Hemphill, Roberts, and Lipscomb and providing for juvenile officers.

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

HOUSE BILL 2255 ON THIRD READING

Senator Price moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2255** 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.

HOUSE BILL 1799 ON SECOND READING

On motion of Senator Price and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1799, Relating to loans discounted by an agricultural credit corporation.

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

HOUSE BILL 1799 ON THIRD READING

Senator Price moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1799** 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.

HOUSE BILL 574 ON SECOND READING

Senator Traeger asked unanimous consent to suspend the regular order of business and all necessary rules to take up for consideration at this time:

H.B. 574, Relating to the counting of votes for write-in candidates and elimination of write-in filing requirements.

There was objection.

Senator Traeger then moved to suspend the regular order of business and take up **H.B. 574** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Mauzy, Mengden, Patman, Truan.

The bill was read second time.

Senator Traeger offered the following committee amendment to the bill:

Amend **H.B. 574** by striking lines 9, 10, 11 on page 1 in Section 1 of the bill and by substituting in lieu thereof the following:

"a fictitious being are not to be counted."

The committee amendment was read and was adopted.

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

Question - Shall the bill as amended be passed to third reading?

On motion of Senator Traeger and by unanimous consent, **H.B. 574** was Laid on the Table Subject to Call.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

S.C.R. 92 Granting David Mitcham and Eric Samuelson permission to sue the State of Texas.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1738 by a vote of 148 Ayes, 2 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2135 by a vote of 124 Ayes, 7 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 454 by a vote of 131 Ayes, 13 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2146 by a vote of 124 Ayes, 2 Noes. Discharged the Conference Committee

HCR 30, Exempting the Department of Public Safety's supervisory vehicles from bearing the inscription of the agency's name.

S.C.R. 105 Directing certain corrections to be made in enrolling **S.B. 350**

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 96(h) SUSPENDED

On motion of Senator Andujar and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1558.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1558 ADOPTED

Senator Andujar called from the President's table the Conference Committee Report on **H.B. 1558.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Andujar, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 384.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 384 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 384.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Harris, the Conference Committee Report was adopted.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 482.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 482 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 482.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Harris, the Conference Committee Report was adopted.

HOUSE BILL 1773 ON THIRD READING

On motion of Senator Jones of Harris and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its third reading and final passage:

H.B. 1773, Affecting the rights and duties of landlords and tenants; relating to a landlord's duty to repair certain conditions in a residential rental premises; providing for remedies of the tenant for landlord's failure to repair; imposing remedies for retaliation by tenants; imposing remedies for harassment by tenants and landlords; waiver under limited conditions; relating to court jurisdiction and venue over actions under this Act; repeal of laws; and declaring an emergency.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Schwartz and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

MOTION TO PLACE HOUSE BILL 1052 ON SECOND READING

Senator Jones of Harris moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1052, Relating to prevention and redress of discrimination in employment, public accommodations, credit transactions, and real property transactions; providing penalties; making appropriations.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 17, Nays 13.

Yeas: Andujar, Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Ogg, Patman, Santiesteban, Schwartz, Snelson, Truan, Vale.

Nays: Blake, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Mengden, Moore, Price, Short, Traeger, Williams.

Absent: Parker.

HOUSE BILL 1421 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1421, Relating to the right-of-way of vehicles on an access road of a controlled access highway.

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

HOUSE BILL 1421 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1421** 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.

HOUSE CONCURRENT RESOLUTION 193 ON SECOND READING

On motion of Senator Jones of Taylor and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time:

H.C.R. 193, Urging Congress to repeal Section 1023 of the Internal Revenue Code.

The resolution was read second time and was adopted.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the resolution.

SENATE RESOLUTION 485 ON SECOND READING

Senator Mengden moved to suspend the regular order of business and all necessary rules to take up for consideration at this time:

S.R. 485, Instructing the Senate Committee on State Affairs to study cults in Texas.

The motion prevailed by the following vote: Yeas 19, Nays 7.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Short, Traeger.

Nays: Doggett, Jones of Taylor, Mauzy, Price, Schwartz, Truan, Williams.

Absent: Clower, Jones of Harris, Parker, Snelson, Vale.

The resolution was read.

Senator Longoria offered the following amendment to the resolution:

Amend SR 485 by striking the second resolved clause and substituting the following new resolved clauses in lieu thereof:

RESOLVED, that the chairman of the Committee on State Affairs be authorized to assign the study to a special subcommittee that he appoints and that he be authorized to appoint senators to this special subcommittee who are not members of the Committee on State Affairs; and, be it further

RESOLVED, that the committee or special subcommittee be authorized to employ staff to assist in the conduct of the study; and, be it further

The amendment was read and was adopted.

Question - Shall the resolution as amended be adopted?

On motion of Senator Doggett and by unanimous consent, consideration of **S.R. 485** was postponed until 11:59 o'clock p.m. tonight.

HOUSE CONCURRENT RESOLUTION 233

The President laid before the Senate the following resolution:

H.C.R. 233, Congratulating Dalhart Windberg, selected as State Artist for 1979.

The resolution was read.

On motion of Senator Short and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RESOLUTION 748

Senator Schwartz offered the following resolution:

S.R. 748, Directing the Senate Committee on Natural Resources to study, during the interim, all aspects of the regulation of the disposal of uranium mill tailings.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RESOLUTION 718

Senator Traeger offered the following resolution:

S.R. 718, Instructing the chairman of the Subcommittee on Nominations to call meetings and public hearings during the interim for the purpose of considering appointments which may be made by the Governor.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

COMMITTEE SUBSTITUTE HOUSE CONCURRENT RESOLUTION 161

On motion of Senator Schwartz and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time:

C.S.H.C.R. 161, Directing the Texas Energy Council to develop an energy conservation program to provide information assistance to consumers on ways to reduce energy consumption.

The resolution was read second time and was adopted.

HOUSE BILL 571 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business and all necessary rules were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 571, Relating to directives under the Natural Death Act.

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

HOUSE BILL 571 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 571** 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.

HOUSE BILL 39 ON THIRD READING

Senator Truan moved to suspend the regular order of business and all necessary rules to take up for consideration on its third reading and final passage:

H.B. 39, Relating to statewide juvenile services and probation; making changes in the name, membership, administration, powers, and duties of the Texas Adult Probation Commission; providing state-aid.

The motion prevailed by the following vote: Yeas 20, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Truan, Vale, Williams.

Nays: Creighton, Farabee, Harris, Jones of Taylor, Price, Snelson.

Absent: McKnight, Moore, Parker, Short, Traeger.

The bill was read third time.

Question - Shall the bill be finally passed?

On motion of Senator Truan and by unanimous consent, **H.B. 39** was Laid on the Table Subject to Call.

HOUSE BILL 1890 ON THIRD READING

Senator Doggett moved to suspend the regular order of business and all necessary rules to take up for consideration on its third reading and final passage:

H.B. 1890, Amending the Lower Colorado River Authority Act, Chapter 7, Acts of the 43rd Legislature, 4th Called Session, 1934, as amended (Article 8280-107, Vernon's Texas Civil Statutes), by adding a new Section 18A; relating to the authority which may be exercised by the Lower Colorado River Authority with regard to certain property; and declaring an emergency.

The motion prevailed by the following vote: Yeas 19, Nays 7.

Yeas: Andujar, Blake, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Mauzy, Mengden, Ogg, Patman, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Creighton, Farabee, Harris, Jones of Taylor, Meier, Moore, Price.

Absent: Braecklein, Longoria, McKnight, Parker, Santiesteban.

The bill was read third time.

MOTION FOR PREVIOUS QUESTION ON HOUSE BILL 1890

Senator Ogg moved the Previous Question on the passage of **H.B. 1890** to third reading.

The Motion was duly seconded by Senators Truan, Mauzy, Vale, Short, Traeger and Clower.

The Motion for the Previous Question was lost by the following vote: Yeas 14, Nays 15.

Yeas: Blake, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Mauzy, Mengden, Ogg, Short, Traeger, Truan, Vale, Williams.

Nays: Andujar, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Moore, Patman, Price, Santiesteban, Schwartz, Snelson.

Absent: Longoria, Parker.

Question - Shall **H.B. 1890** be passed to third reading?

CONFERENCE COMMITTEE REPORT SENATE BILL 385

Senator Jones of Harris submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representative on **S.B. 385** have met and 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.

JONES OF HARRIS
WILLIAMS
BLAKE
PARKER
SANTIESTEBAN
On the part of the Senate

HARTUNG
WARE
McLEOD
WASHINGTON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

providing that obligations of public agencies in Texas and of the United States of America and its agencies and instrumentalities shall be eligible and lawful security for all deposits of public funds; and declaring an emergency.

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

Section 1. The following words, as used in this Act, shall have the meaning set forth below:

(a) "Public agency" means any board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas, including without limitation any county, home-rule charter city, general-law city, town, or

village, any state-supported educational institution of higher learning, any school, junior college, hospital, water, sewage, waste disposal, pollution, road, navigation, levee, drainage, conservation, reclamation, or other district or authority, and any other type of political or governmental entity of the State of Texas.

(b) "Securities" means (1) all obligations issued by any public agency, including without limitation bonds, advance refunded bonds, notes, bond anticipation notes, warrants, certificates, or other evidences of indebtedness, whether general or special, whether negotiable or nonnegotiable in form, whether in bearer or registered form, whether in temporary or permanent form, whether with or without interest coupons, and regardless of the source of payment, whether from taxes, revenues, or both, or otherwise, and (2) all obligations of the United States of America, including without limitation all bonds, notes, treasury bills, repurchase agreements, and other obligations which are issued or unconditionally guaranteed as to principal and interest by the United States of America, and (3) all obligations, including without limitation all bonds, notes, discount notes, repurchase agreements, and other obligations issued or unconditionally guaranteed as to principal and interest by any federal agency or instrumentality of the United States government.

Sec. 2. All securities shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any public agency to the extent of the market value of such securities.

Sec. 3. To the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control.

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and filed.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1814 by a vote of 107 Ayes, 26 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen. Bill No. 1154 adopted by a vote of 109 Ayes, 18 Noes.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 480 adopted by a vote of 117 Ayes, 1 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen. Bill No. 1155 adopted by a vote of 107 Ayes, 19 Noes.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 1626 adopted by a vote of 102 Ayes, 24 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 797 adopted by a vote of 126 Ayes, 0 Noes.

S.C.R. 86 Granting Dr. Arthur G. Enns permission to sue the Board of Regents of The University of Texas System, the M. D. Anderson Hospital and Tumor Institute at Houston, Texas, and the Rio Grande Radiation Treatment and Cancer Research Foundation, Incorporated, at McAllen, Texas.

S.C.R. 100 Granting Lloyd Peoples permission to sue the state

H.C.R. 223 Commending Westlake High School Madrigal Singers

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 287 adopted by a vote of 119 Ayes, 22 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 281 adopted by a vote of 124 Ayes, 15 Noes.

S.C.R. 89 Creating a special committee to study rural industrial development

S.C.R. 101 Creating a committee on Higher Education Financing

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 139 adopted by a vote of 131 Ayes, 5 Noes.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 2142 adopted by a vote of 119 Ayes, 13 Noes.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 1273 adopted by a vote of 137 Ayes, 4 Noes.

All necessary rules suspended, and the Conference Committee Report on SB No. 384 adopted by a vote of 101 Ayes, 37 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 276 adopted by a vote of 112 Ayes, 38 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 482 adopted by a vote of 105 Ayes, 30 Noes.

S.C.R. 104 authorizing certain corrections in **S.B. 374**

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1209 by a vote of 87 Ayes, 42 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 1071 adopted by a vote of 115 Ayes, 14 Noes.

All necesary rules suspended, and the Conference Committee Report on House Bill No. 1389 adopted by a vote of 115 Ayes, 25 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 1069 adopted by a vote of 130 Ayes 9 Noes.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 1558 adopted by a vote of 126 Ayes, 6 Noes.

All necessary rules suspended, and the Conference Committee Report on Sen Bill No. 385 adopted by a vote of

All necessary rules suspended, and the House concurred in Senate amendments to House CR No. 161 by a vote of 124 Ayes, 15 Noes.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM FOR THE REGULAR SESSION OF THE SIXTY-SIXTH LEGISLATURE

The President announced the election of the President Pro Tempore as the next order of business.

Senator Snelson nominated Senator Bill Braecklein of Dallas as President Pro Tempore Ad Interim for the Regular Session of the Sixty-Sixth Legislature.

Senators Harris, Santiesteban, Parker, Mauzy, Meier, Ogg, Longoria, Clower, Vale, Farabee, Traeger and Patman seconded the nomination.

On motion of Senator Snelson and by unanimous consent, Senator Braecklein was elected by acclamation.

Senators Harris, Mauzy, McKnight, Moore and Santiesteban were appointed by the President to escort Senator Braecklein to the President's Rostrum.

The President presented Senator Braecklein to the Senate as their President Pro Tempore Ad Interim.

Senator Braecklein addressed the Senate, expressing his appreciation and stating he could now appreciate the words of every President Pro Tempore he had witnessed receiving the honor - that it truly was an honor and privilege to be selected to serve.

MOTION IN WRITING

Senator Moore submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and adopted.

The President announced the appointment of the following Committee to notify the Governor: Senators Andujar, Creighton, Harris, Kothmann and Mengden.

MOTION IN WRITING

Senator Moore submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and was adopted.

The President announced the appointment of the following Committee to notify the House: Senators Clower, Howard, Parker, Schwartz and Truan.

SENATE RESOLUTION 752

The President offered the following resolution:

WHEREAS, Sometimes a session is like a war; there are factions and divisions that occur from time to time on the floor of this old Senate, but in the end, all of us maintain a focus on the purposes for which we are here: that being to create and amend the law to the benefit of our constituents at home and the people we serve throughout the state; and

WHEREAS, When we come together there are many old relationships, oppositions well-fortified and friendships comfortable and supportive; and

WHEREAS, One person who we have all come to rely on, regardless of our politics, religious faith, or standing in the hive is Mrs. Betty King; and

WHEREAS, She is responsible for keeping the machinery well-oiled and running while the battle rages on the floor of the Senate or in the headlines and after the smoke clears, she and her dedicated staff quickly move in to clean up and prepare for the next encounter; and

WHEREAS, In the often frantic activity that surrounds her, she maintains her composure with the familiarity of an experienced field commander and laughs at our jokes without our having to explain them; and

WHEREAS, She has the good taste and discrimination to find the best people in the State of Texas with which to fill her staff so that each day, even if it requires working until the early hours of the next morning, as it often does, the bills and any required information rests on our desks waiting for our study and debate; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 66th Legislature, commend Mrs. Betty King for her successful and dedicated performance during a particularly nerve-racking and maddening guessing game of a session; and, be it further

RESOLVED, That we show our appreciation with a standing round of applause, as she will probably throw this Resolution into the closest trash can.

The resolution was read.

On motion of Senator Moore and by unanimous consent, the names of the Lieutenant Governor and Senators were added as signers thereof.

On motion of Lieutenant Governor Hobby and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 94 **H.B. 806**
H.C.R. 227 **H.B. 852**
H.C.R. 228 **H.B. 1249**
H.C.R. 231 **H.B. 1362**
H.C.R. 232 **H.B. 1503** (Again signed)
H.J.R. 86 **H.B. 1735**
H.J.R. 108 **H.B. 1741**
H.J.R. 133 **H.B. 1794**
H.B. 225 **H.B. 1924**
H.B. 408 **H.B. 2200**
H.B. 2205
H.B. 1060 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)
H.B. 558 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

SENATE NOTIFIED

A Committee from the House of Representatives appeared at the Bar of the Senate and Mr. Slack for the Committee notified the Senate that the House was ready to adjourn sine die.

AT EASE

The President announced the Senate would Stand at Ease, pending completion of business, Subject to the Call of the Chair.

IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session.

(Senator Jones of Taylor in Chair)

BILL SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 621

(President in Chair)

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 161	**H.C.R. 172**	**H.C.R. 193**
H.C.R. 230	**H.C.R. 233**	**H.C.R. 234**
H.B. 63	**H.B. 1309**	**H.B. 1918**
H.B. 263	**H.B. 1325**	**H.B. 1936**
H.B. 480	**H.B. 1389**	**H.B. 2030**
H.B. 571	**H.B. 1421**	**H.B. 2100**
H.B. 628	**H.B. 1460**	**H.B. 2107**
H.B. 735	**H.B. 1474**	**H.B. 2122**
H.B. 758	**H.B. 1552**	**H.B. 2135**
H.B. 771	**H.B. 1558**	**H.B. 2142**
H.B. 864	**H.B. 1619**	**H.B. 2146**
H.B. 869	**H.B. 1626**	**H.B. 2229**
H.B. 995	**H.B. 1738**	**H.B. 2255**
H.B. 1134	**H.B. 1773**	**H.B. 2269**
H.B. 1814	**H.B. 1799**	**H.J.R. 97**

H.B. 454 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

H.B. 1209 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

S.C.R. 86	**S.C.R. 94**	**S.C.R. 104**
S.C.R. 87	**S.C.R. 96**	**S.C.R. 105**
S.C.R. 89	**S.C.R. 100**	**S.C.R. 106**
S.C.R. 92	**S.C.R. 101**	**S.J.R. 36**
S.B. 27	**S.B. 530**	**S.B. 1170**
S.B. 117	**S.B. 588**	**S.B. 1171**
S.B. 124	**S.B. 666**	**S.B. 1211**
S.B. 125	**S.B. 768**	**S.B. 1268**
S.B. 844	**S.B. 1317**	
S.B. 232	**S.B. 909**	**S.B. 1273**
S.B. 254	**S.B. 952**	**S.B. 276**
S.B. 281	**S.B. 1069**	**S.B. 287**
S.B. 284	**S.B. 1071**	**S.B. 374**
S.B. 296	**S.B. 1076**	**S.B. 384**
S.B. 322	**S.B. 1079**	**S.B. 662**
S.B. 428	**S.B. 1129**	**S.B. 797**
S.B. 479	**S.B. 1155**	**S.B. 1154**
S.B. 482	**S.B. 1168**	**S.B. 1255**
S.B. 521	**S.B. 1169**	

S.B. 139 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

S.B. 563 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

S.B. 350 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

MEMORIAL RESOLUTIONS

H.C.R. 172 - (Schwartz): Memorial resolution for Hiram Isaac White.

S.R. 728 - By Schwartz: Memorial resolution for Karl Schraub.

S.R. 734 - By Farabee: Memorial resolution for Mrs. Helen Howard Vinson.

S.R. 755 - By Schwartz: Memorial resolution for Arthur Eberhard Bonorden.

S.R. 721 - By Doggett: Memorial resolution for William J. Cutbirth, Jr.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 94 - (Kothmann, Parker): Extending congratulations to Luciano Adams.

H.C.R. 230 - (Farabee): Extending congratulations to Representatives Keese and Kubiak and declaring them as co-fathers of gasohol in Texas.

H.C.R. 232 - (Snelson): Encouraging statewide cooperation with the 1980 census.

H.C.R. 234 - (Jones of Taylor): Extending congratulations to John T. Potter.

S.R. 722 - By Mengden: Extending congratulations to Phyllis Quinn, Jay Gore, and Terence Riggan.

S.R. 723 - By Mengden: Extending congratulations to Beth Toney, Vickie Craft and Sue Krenek.

S.R. 725 - By Clower: Extending welcome to Reverend and Mrs. Rodney Williams.

S.R. 726 - By Clower: Extending congratulations to Judge G. P. Hardy II and Gertrude Hardy.

S.R. 727 - By Schwartz: Extending welcome to the eighth and ninth grade classes of Lorrain Crosby Junior High School of Hitchcock, Texas.

S.R. 729 - By Schwartz: Extending congratulations to Angleton High School on its athletic accomplishments during the 1978-79 school year.

S.R. 730 - By Schwartz: Extending congratulations to the Reedy Chapel African Methodist Episcopal Church of Galveston.

S.R. 731 - By Schwartz: Extending congratulations to Peaches Kempner.

S.R. 732 - By Schwartz: Extending congratulations to La Marque High School.

S.R. 733 - By Schwartz: Extending congratulations to Ball High School on its notable achievements in athletics during the 1978-79 school year.

S.R. 735 - By Clower: Extending congratulations to Olin J. and Jimmie E. Tippit.

S.R. 736 - By Clower: Extending congratulations to Jennifer D'Ann Tucker.

S.R. 737 - By Clower: Extending congratulations to Lisa Lyn Tucker.

S.R. 738 - By Clower: Extending congratulations to Michael Douglas Flavin.

S.R. 739 - By Clower: Extending congratulations to Robin Barker.

S.R. 740 - By Clower: Extending congratulations to Sherry and Christopher Angelo.

S.R. 741 - By Doggett, Truan: Extending congratulations to Raul Reza Vasquez.

S.R. 743 - By Creighton: Extending congratulations to Louise Ritter.

S.R. 744 - By Parker, Williams: Extending congratulations to veterans of the war in Viet Nam.

S.R. 746 - By Creighton: Extending congratulations to Texas Woman's University Softball Team.

S.R. 747 - By Creighton: Extending welcome to Dee Stark, Gennie Gilmore and Carrie Gilmore.

S.R. 750 - By Clower: Extending congratulations to Bruce C. Hardy.

S.R. 751 - By Patman: Extending congratulations to Martha Boston.

S.R. 753 - By Clower: Extending congratulations to Mary Christine Hoffard.

S.R. 754 - By Clower: Extending congratulations to The Rush Creek Yacht Club.

S.R. 756 - By Schwartz: Directing the Lieutenant Governor to appoint a special committee to commission a sculptor to produce a bust of the Honorable A. M. Aikin, Jr.

S.R. 757 - By Schwartz: Extending congratulations to Frank Incapera, Sr.

S.R. 758 - By Schwartz: Extending congratulations to Pete Mendoza.

S.R. 759 - By Jones of Harris: Extending congratulations to L. D. Staton.

S.R. 760 - By Jones of Harris: Extending congratulations to Shawn and Leroy Beck, Jr.

S.R. 761 - By Jones of Harris: Extending congratulations to Oliver and Tanya Jackson.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the Sixty-Sixth Legislature had arrived.

Senator Andujar moved that the Senate of the Sixty-Sixth Legislature stand adjourned sine die.

The motion prevailed and the President declared the Regular Session of the Sixty-Sixth Legislature adjourned sine die.

APPENDIX

Sent to Governor

(May 28, 1979)

S.C.R. 50	**S.C.R. 98**		
S.B. 49	**S.B. 615**	**S.B. 885**	**S.B. 1188**
S.B. 74	**S.B. 648**	**S.B. 886**	**S.B. 1195**
S.B. 93	**S.B. 685**	**S.B. 893**	**S.B. 1196**
S.B. 104	**S.B. 733**	**S.B. 903**	**S.B. 1228**
S.B. 171	**S.B. 746**	**S.B. 916**	**S.B. 1231**
S.B. 196	**S.B. 764**	**S.B. 924**	**S.B. 1234**
S.B. 210	**S.B. 772**	**S.B. 929**	**S.B. 1242**
S.B. 233	**S.B. 773**	**S.B. 930**	**S.B. 1245**
S.B. 277	**S.B. 777**	**S.B. 951**	**S.B. 1247**
S.B. 313	**S.B. 785**	**S.B. 956**	**S.B. 1249**
S.B. 334	**S.B. 807**	**S.B. 985**	**S.B. 1256**
S.B. 335	**S.B. 824**	**S.B. 994**	**S.B. 1260**
S.B. 376	**S.B. 825**	**S.B. 1011**	**S.B. 1262**
S.B. 378	**S.B. 846**	**S.B. 1017**	**S.B. 1264**
S.B. 386	**S.B. 849**	**S.B. 1046**	**S.B. 1271**
S.B. 423	**S.B. 854**	**S.B. 1051**	**S.B. 1299**
S.B. 429	**S.B. 855**	**S.B. 1053**	**S.B. 1318**
S.B. 446	**S.B. 856**	**S.B. 1054**	
S.B. 465	**S.B. 861**	**S.B. 1101**	
S.B. 517	**S.B. 867**	**S.B. 1105**	
S.B. 532	**S.B. 869**	**S.B. 1130**	
S.B. 541	**S.B. 877**	**S.B. 1156**	
S.B. 546	**S.B. 878**	**S.B. 1167**	
S.B. 582	**S.B. 883**	**S.B. 1176**	

(May 30, 1979)

S.B. 27	**S.B. 428**	**S.B. 952**	**S.B. 1255**
S.B. 117	**S.B. 455**	**S.B. 1069**	**S.B. 1268**
S.B. 124	**S.B. 479**	**S.B. 1071**	**S.B. 1273**
S.B. 125	**S.B. 482**	**S.B. 1076**	**S.B. 1301**

S.B. 127	**S.B. 521**	**S.B. 1077**	**S.B. 1306**
S.B. 139	**S.B. 530**	**S.B. 1079**	**S.B. 1317**
S.B. 143	**S.B. 540**	**S.B. 1129**	**S.C.R. 86**
S.B. 164	**S.B. 551**	**S.B. 1131**	**S.C.R. 87**
S.B. 232	**S.B. 580**	**S.B. 1150**	**S.C.R. 89**
S.B. 254	**S.B. 588**	**S.B. 1154**	**S.C.R. 92**
S.B. 276	**S.B. 621**	**S.B. 1155**	**S.C.R. 94**
S.B. 281	**S.B. 662**	**S.B. 1158**	**S.C.R. 96**
S.B. 284	**S.B. 666**	**S.B. 1168**	**S.C.R. 100**
S.B. 287	**S.B. 712**	**S.B. 1169**	**S.C.R. 101**
S.B. 296	**S.B. 768**	**S.B. 1170**	**S.C.R. 103**
S.B. 322	**S.B. 797**	**S.B. 1171**	**S.C.R. 104**
S.B. 359	**S.B. 844**	**S.B. 1204**	**S.C.R. 105**
S.B. 374	**S.B. 851**	**S.B. 1211**	**S.C.R. 106**
S.B. 384	**S.B. 909**	**S.B. 1218**	

Sent to Comptroller

(May 30, 1979)

S.B. 350
S.B. 563

Sent to Secretary of State

(May 28, 1979)

S.J.R. 8
S.J.R. 35

(May 31, 1979)

S.J.R. 36

Sent to Governor

(June 1, 1979)

S.B. 350

(June 6, 1979)

S.B. 139
S.B. 563

Sent to Comptroller

(June 7, 1979)

S.B. 139

Again Sent to Governor

(June 11, 1979)

S.B. 139

Signed by Governor

(May 24, 1979)

H.C.R. 202

(May 28, 1979)

H.C.R. 27	**S.C.R. 77**
H.C.R. 138	**S.C.R. 78**
H.C.R. 139	**S.C.R. 79**
H.C.R. 142	**S.C.R. 80**
H.C.R. 143	**S.C.R. 81**
H.C.R. 145	**S.C.R. 82**
H.C.R. 185	**S.C.R. 83**
H.C.R. 215	**S.C.R. 99**
S.C.R. 20	**S.C.R. 51**
S.C.R. 25	**S.C.R. 85**
S.C.R. 36	**H.C.R. 169**
S.C.R. 41	**H.C.R. 187**
S.C.R. 42	**H.C.R. 206**
S.C.R. 49	**H.C.R. 212**
S.C.R. 58	**H.C.R. 214**
S.C.R. 73	**H.C.R. 218**
S.C.R. 75	

(May 29, 1979)

S.B. 257 Effective immediately

Signed by Governor

(May 31, 1979)

S.B. 1243 Effective immediately
H.B. 1060 Effective immediately
(except Sections 9 & 11, effective January 1, 1980)
H.C.R. 39
H.C.R. 54
H.C.R. 58
H.C.R. 82
H.C.R. 90
H.C.R. 98
H.C.R. 102
H.C.R. 103
H.C.R. 104
H.C.R. 105
H.C.R. 106

H.C.R. 107
H.C.R. 112
H.C.R. 127
H.C.R. 140
H.C.R. 141
H.C.R. 144
H.C.R. 153
H.C.R. 170
H.C.R. 174
H.C.R. 180
H.C.R. 183
H.C.R. 189
H.C.R. 190
H.C.R. 191
H.C.R. 200
H.C.R. 208
H.C.R. 209
H.C.R. 211
H.C.R. 219
H.C.R. 220
H.C.R. 221
H.C.R. 222
H.C.R. 224
H.C.R. 225
H.C.R. 226
H.C.R. 94
H.C.R. 161
H.C.R. 172
H.C.R. 193
H.C.R. 227
H.C.R. 228
H.C.R. 230
H.C.R. 231
H.C.R. 232
H.C.R. 233
H.C.R. 234
S.C.R. 50
S.C.R. 86
S.C.R. 87
S.C.R. 89
S.C.R. 92
S.C.R. 94
S.C.R. 96
S.C.R. 98
S.C.R. 100
S.C.R. 101
S.C.R. 103
S.C.R. 104
S.C.R. 105
S.C.R. 106

(June 2, 1979)

S.B. 906	Effective September 1, 1979

(June 4, 1979)

H.B. 1433	Effective immediately

(June 6, 1979)

S.B. 41	Effective immediately
S.B. 54	Effective September 1, 1979
S.B. 66	Effective August 27, 1979
S.B. 108	Effective immediately
S.B. 172	Effective August 27, 1979
S.B. 369	Effective immediately
S.B. 372	Effective August 27, 1979
S.B. 406	Effective August 27, 1979
S.B. 439	Effective August 27, 1979
S.B. 632	Effective August 27, 1979
S.B. 755	Effective August 27, 1979
H.B. 179	Effective August 27, 1979
H.B. 448	Effective August 27, 1979
H.B. 461	Effective August 27, 1979
H.B. 512	Effective August 27, 1979
H.B. 561	Effective August 27, 1979
H.B. 620	Effective immediately
H.B. 658	Effective January 1, 1980
H.B. 1042	Effective August 27, 1979
H.B. 1137	Effective January 1, 1981
S.B. 10	Effective August 27, 1979
S.B. 46	Effective August 27, 1979
S.B. 93	Effective August 27, 1979
S.B. 102	Effective August 27, 1979
S.B. 178	Effective immediately
S.B. 300	Effective August 27, 1979
S.B. 349	Effective immediately
S.B. 354	Effective immediately
S.B. 371	Effective immediately
S.B. 429	Effective immediately
S.B. 432	Effective August 27, 1979
S.B. 472	Effective immediately
S.B. 562	Effective immediately
S.B. 609	Effective August 27, 1979
S.B. 613	Effective August 27, 1979
S.B. 675	Effective immediately
S.B. 692	Effective immediately
S.B. 718	Effective August 27, 1979
S.B. 766	Effective immediately
S.B. 789	Effective immediately
S.B. 849	Effective August 27, 1979
S.B. 986	Effective immediately
S.B. 997	Effective August 27, 1979
S.B. 1082	Effective August 27, 1979
S.B. 1095	Effective immediately
S.B. 1104	Effective August 27, 1979

S.B. 1107	Effective immediately
S.B. 1162	Effective immediately
S.B. 1197	Effective August 27, 1979
S.B. 1198	Effective August 27, 1979
S.B. 1199	Effective immediately
S.B. 1203	Effective immediately
S.B. 1217	Effective August 27, 1979
S.B. 1222	Effective August 27, 1979
S.B. 1226	Effective August 27, 1979
S.B. 1227	Effective August 27, 1979
S.B. 1228	Effective August 27, 1979
S.B. 1234	Effective August 27, 1979
S.B. 1245	Effective immediately
S.B. 1246	Effective immediately
S.B. 1247	Effective August 27, 1979
S.B. 1266	Effective immediately
S.B. 1271	Effective September 1, 1979
S.B. 1272	Effective immediately
S.B. 1299	Effective August 27, 1979
S.B. 1301	Effective immediately
H.B. 42	Effective August 27, 1979
H.B. 52	Effective August 27, 1979
H.B. 155	Effective January 1, 1980
H.B. 239	Effective immediately
H.B. 283	Effective August 27, 1979
H.B. 1262	Effective immediately
H.B. 1333	Effective immediately
H.B. 1355	Effective August 27, 1979
H.B. 1368	Effective immediately
H.B. 1413	Effective August 27, 1979
H.B. 1426	Effective August 27, 1979
H.B. 1429	Effective August 27, 1979
H.B. 1453	Effective August 27, 1979
H.B. 1457	Effective immediately
H.B. 1469	Effective August 27, 1979
H.B. 1502	Effective immediately
H.B. 1530	Effective August 27, 1979
H.B. 1547	Effective immediately
H.B. 1557	Effective September 1, 1979
H.B. 1565	Effective September 1, 1979
H.B. 1577	Effective August 27, 1979
H.B. 1677	Effective August 27, 1979
H.B. 1685	Effective immediately
H.B. 1691	Effective August 27, 1979
H.B. 1692	Effective August 27, 1979
H.B. 1772	Effective September 1, 1979
H.B. 1774	Effective August 27, 1979
H.B. 1775	Effective August 27, 1979
H.B. 1777	Effective immediately
H.B. 1806	Effective immediately
H.B. 1811	Effective August 27, 1979
H.B. 1857	Effective August 27, 1979
H.B. 1858	Effective immediately
H.B. 1863	Effective immediately
H.B. 1907	Effective immediately

H.B. 1917	Effective September 1, 1979
H.B. 1921	Effective immediately
H.B. 1926	Effective September 1, 1979
H.B. 1950	Effective August 27, 1979
H.B. 1954	Effective September 1, 1979
H.B. 1955	Effective August 27, 1979
H.B. 1956	Effective August 27, 1979
H.B. 1966	Effective immediately
H.B. 1969	Effective August 27, 1979
H.B. 2026	Effective immediately
H.B. 2038	Effective August 27, 1979
H.B. 2108	Effective August 27, 1979
H.B. 2109	Effective immediately
H.B. 2158	Effective August 27, 1979
H.B. 2168	Effective August 27, 1979
H.B. 2171	Effective immediately
H.B. 2172	Effective August 27, 1979
H.B. 2173	Effective August 27, 1979
H.B. 2174	Effective immediately
H.B. 2175	Effective August 27, 1979
H.B. 2176	Effective August 27, 1979
H.B. 2182	Effective August 27, 1979
H.B. 2184	Effective August 27, 1979
H.B. 2187	Effective August 27, 1979
H.B. 2189	Effective immediately
H.B. 2191	Effective immediately
H.B. 2204	Effective immediately
H.B. 2213	Effective August 27, 1979
H.B. 2214	Effective immediately
H.B. 2220	Effective August 27, 1979
H.B. 2222	Effective immediately
H.B. 2223	Effective immediately
H.B. 2225	Effective August 27, 1979
H.B. 2226	Effective January 1, 1980
H.B. 2236	Effective immediately
H.B. 2237	Effective August 27, 1979
H.B. 2238	Effective immediately
H.B. 2240	Effective immediately
H.B. 2253	Effective August 27, 1979
H.B. 2256	Effective immediately
H.B. 2261	Effective August 27, 1979
H.B. 2264	Effective August 27, 1979
H.B. 2268	Effective immediately
H.B. 2275	Effective August 27, 1979

(June 7, 1979)

H.B. 2091	Effective September 1, 1979
S.B. 104	Effective August 27, 1979
S.B. 359	Effective August 27, 1979
S.B. 856	Effective September 1, 1979
S.B. 1168	Effective January 1, 1981
H.B. 284	Effective immediately
H.B. 449	Effective August 27, 1979
H.B. 471	Effective August 27, 1979

H.B. 504	Effective September 1, 1979
H.B. 546	Effective August 27, 1979
H.B. 621	Effective immediately
H.B. 671	Effective immediately
H.B. 673	Effective August 27, 1979
H.B. 711	Effective August 27, 1979
H.B. 750	Effective September 1, 1979
H.B. 794	Effective immediately
H.B. 798	Effective August 27, 1979
H.B. 848	Effective September 1, 1979
H.B. 850	Effective August 27, 1979
H.B. 860	Effective August 27, 1979
H.B. 874	Effective August 27, 1979
H.B. 875	Effective September 1, 1979
H.B. 876	Effective August 27, 1979
H.B. 915	Effective August 27, 1979
H.B. 918	Effective August 27, 1979
H.B. 930	Effective August 27, 1979
H.B. 956	Effective immediately
H.B. 979	Effective August 27, 1979
H.B. 980	Effective immediately
H.B. 986	Effective August 27, 1979
H.B. 1001	Effective August 27, 1979
H.B. 1002	Effective August 27, 1979
H.B. 1007	Effective August 27, 1979
H.B. 1016	Effective January 1, 1980
H.B. 1022	Effective immediately
H.B. 1027	Effective immediately
H.B. 1030	Effective August 27, 1979
H.B. 1056	Effective August 27, 1979
H.B. 1071	Effective immediately
H.B. 1079	Effective August 27, 1979
H.B. 1117	Effective September 1, 1979
H.B. 1123	Effective August 27, 1979
H.B. 1160	Effective August 27, 1979
H.B. 1167	Effective August 27, 1979
H.B. 1168	Effective immediately
H.B. 1206	Effective immediately
H.B. 1219	Effective August 27, 1979
H.B. 1225	Effective immediately
H.B. 1237	Effective August 27, 1979
H.B. 1242	Effective August 27, 1979
H.B. 1245	Effective August 27, 1979
H.B. 1277	Effective August 27, 1979
H.B. 1293	Effective August 27, 1979
H.B. 1297	Effective immediately
H.B. 1423	Effective immediately
H.B. 1803	Effective immediately
H.B. 1986	Effective immediately

(June 11, 1979)

S.B. 287	Effective immediately
S.B. 74	Effective August 27, 1979
S.B. 196	Effective August 27, 1979

S.B. 209	Effective August 27, 1979
S.B. 334	Effective immediately
S.B. 386	Effective August 27, 1979
S.B. 434	Effective immediately
S.B. 451	Effective August 27, 1979
S.B. 465	Effective immediately
S.B. 532	Effective August 27, 1979
S.B. 540	Effective immediately
S.B. 541	Effective immediately
S.B. 588	Effective immediately
S.B. 615	Effective August 27, 1979
S.B. 754	Effective August 27, 1979
S.B. 777	Effective immediately
S.B. 807	Effective August 27, 1979
S.B. 854	Effective September 1, 1979
S.B. 855	Effective September 1, 1979
S.B. 885	Effective August 27, 1979
S.B. 886	Effective August 27, 1979
S.B. 893	Effective August 27, 1979
S.B. 930	Effective August 27, 1979
S.B. 952	Effective August 27, 1979
S.B. 1011	Effective immediately
S.B. 1167	Effective August 27, 1979
S.B. 1169	Effective January 1, 1981
S.B. 1170	Effective January 1, 1981
S.B. 1188	Effective August 27, 1979
S.B. 1202	Effective immediately
S.B. 1218	Effective immediately
S.B. 1231	Effective immediately
S.B. 1262	Effective August 27, 1979
S.B. 1264	Effective August 27, 1979
H.B. 8	Effective August 27, 1979
H.B. 63	Effective August 27, 1979
H.B. 263	Effective August 27, 1979
H.B. 408	Effective August 27, 1979
H.B. 543	Effective August 27, 1979
H.B. 628	Effective September 1, 1979
H.B. 686	Effective subject to legislative appropriation
H.B. 758	Effective August 27, 1979
H.B. 806	Effective immediately
H.B. 852	Effective August 27, 1979
H.B. 864	Effective immediately
H.B. 869	Effective August 27, 1979
H.B. 961	Effective January 1, 1981 (except as provided by Subsection (a), Section 6)
H.B. 995	Effective August 27, 1979
H.B. 1224	Effective August 27, 1979
H.B. 1249	Effective September 1, 1979
H.B. 1309	Effective August 27, 1979
H.B. 1375	Effective September 1, 1979
H.B. 1421	Effective August 27, 1979
H.B. 1456	Effective September 1, 1979
H.B. 1566	Effective September 1, 1979
H.B. 1610	Effective August 27, 1979
H.B. 1658	Effective September 1, 1979

H.B. 1735	Effective August 27, 1979
H.B. 1738	Effective July 1, 1980
H.B. 1799	Effective August 27, 1979
H.B. 1957	Effective August 27, 1979
H.B. 2025	Effective August 27, 1979
H.B. 2040	Effective immediately
H.B. 2083	Effective August 27, 1979 (Sec. 5 & 6 effective September 1, 1980)
H.B. 2084	Effective August 27, 1979
H.B. 2118	Effective August 27, 1979
H.B. 2135	Effective immediately
H.B. 2200	Effective immediately
H.B. 2211	Effective August 27, 1979
H.B. 2244	Effective September 1, 1979
H.B. 2255	Effective August 27, 1979

(June 13, 1979)

S.B. 49	Effective immediately
S.B. 117	Effective immediately
S.B. 125	Effective September 1, 1979
S.B. 127	Effective immediately
S.B. 139	Effective September 1, 1979
S.B. 143	Effective immediately
S.B. 171	Effective September 1, 1979
S.B. 232	Effective August 27, 1979
S.B. 233	Effective immediately
S.B. 254	Effective September 1, 1979
S.B. 267	Effective immediately
S.B. 273	Effective August 27, 1979
S.B. 276	Effective September 1, 1979
S.B. 277	Effective September 1, 1979
S.B. 278	Effective immediately
S.B. 281	Effective September 1, 1979
S.B. 284	Effective immediately
S.B. 292	Effective August 27, 1979
S.B. 313	Effective immediately
S.B. 322	Effective August 27, 1979
S.B. 324	Effective September 1, 1979
S.B. 335	Effective August 27, 1979
S.B. 340	Effective immediately
S.B. 350	Effective August 27, 1979
S.B. 357	Effective August 27, 1979
S.B. 374	Effective August 27, 1979
S.B. 376	Effective August 27, 1979
S.B. 384	Effective September 1, 1979
S.B. 423	Effective August 27, 1979
S.B. 428	Effective August 27, 1979
S.B. 446	Effective August 27, 1979
S.B. 455	Effective immediately
S.B. 463	Effective August 27, 1979
S.B. 479	Effective August 27, 1979
S.B. 482	Effective September 1, 1979
S.B. 486	Effective August 27, 1979
S.B. 521	Effective August 27, 1979

S.B. 526	Effective September 1, 1979
S.B. 530	Effective August 27, 1979
S.B. 546	Effective September 1, 1979
S.B. 551	Effective September 1, 1979
S.B. 553	Effective January 1, 1981
S.B. 555	Effective September 1, 1979
S.B. 563	Effective immediately
S.B. 580	Effective August 27, 1979
S.B. 582	Effective immediately
	(Article 2, effective September 1, 1981)
S.B. 621	Effective August 27, 1979
S.B. 636	Effective September 1, 1979
S.B. 642	Effective January 1, 1980
S.B. 648	Effective August 27, 1979
S.B. 660	Effective August 27, 1979
S.B. 662	Effective September 1, 1979
S.B. 666	Effective immediately
S.B. 678	Effective immediately
S.B. 685	Effective August 27, 1979
S.B. 706	Effective immediately
S.B. 712	Effective August 27, 1979
S.B. 736	Effective August 27, 1979
S.B. 726	Effective immediately
S.B. 746	Effective August 27, 1979
S.B. 747	Effective immediately
S.B. 759	Effective immediately
S.B. 763	Effective immediately
S.B. 764	Effective September 1, 1979
S.B. 767	Effective September 1, 1979
	(Section 5, effective January 1, 1980)
S.B. 768	Effective September 1, 1979
S.B. 773	Effective August 27, 1979
S.B. 778	Effective August 27, 1979
S.B. 797	Effective September 1, 1979
S.B. 805	Effective August 27, 1979
S.B. 811	Effective August 27, 1979
S.B. 817	Effective September 1, 1979
S.B. 824	Effective August 27, 1979
S.B. 825	Effective immediately
S.B. 828	Effective August 27, 1979
S.B. 835	Effective immediately
S.B. 844	Effective August 27, 1979
S.B. 846	Effective September 1, 1979
S.B. 865	Effective August 27, 1979
S.B. 867	Effective August 27, 1979
S.B. 868	Effective August 27, 1979
S.B. 869	Effective August 27, 1979
S.B. 878	Effective immediately
S.B. 883	Effective immediately
S.B. 891	Effective September 1, 1979
S.B. 903	Effective August 27, 1979
S.B. 909	Effective August 27, 1979
S.B. 916	Effective August 27, 1979
S.B. 921	Effective September 1, 1979
S.B. 924	Effective immediately

S.B. 929	Effective August 27, 1979
S.B. 951	Effective August 27, 1979
S.B. 956	Effective September 1, 1979
S.B. 965	Effective immediately
S.B. 979	Effective August 27, 1979
S.B. 985	Effective August 27, 1979
S.B. 994	Effective August 27, 1979
S.B. 1012	Effective August 27, 1979
S.B. 1017	Effective August 27, 1979
S.B. 1046	Effective August 27, 1979
S.B. 1051	Effective immediately
S.B. 1053	Effective immediately
S.B. 1054	Effective immediately
S.B. 1069	Effective August 27, 1979
S.B. 1071	Effective September 1, 1979
S.B. 1079	Effective August 27, 1979
S.B. 1101	Effective August 27, 1979
S.B. 1105	Effective August 27, 1979
S.B. 1129	Effective August 27, 1979
S.B. 1130	Effective August 27, 1979
S.B. 1131	Effective immediately
S.B. 1150	Effective immediately
S.B. 1157	Effective September 1, 1979
S.B. 1158	Effective August 27, 1979
S.B. 1171	Effective January 1, 1981
S.B. 1196	Effective immediately
S.B. 1204	Effective August 27, 1979
S.B. 1211	Effective immediately
S.B. 1242	Effective August 27, 1979
S.B. 1255	Effective immediately
S.B. 1260	Effective August 27, 1979
S.B. 1269	Effective August 27, 1979
S.B. 1275	Effective immediately
S.B. 1306	Effective immediately
S.B. 1317	Effective August 27, 1979
S.B. 1318	Effective immediately
H.B. 15	Effective August 27, 1979
H.B. 31	Effective August 27, 1979
H.B. 38	Effective August 27, 1979
H.B. 41	Effective August 27, 1979
H.B. 165	Effective August 27, 1979
H.B. 225	Effective September 1, 1979
H.B. 233	Effective September 1, 1979
H.B. 257	Effective August 27, 1979
H.B. 309	Effective August 27, 1979
H.B. 329	Effective August 27, 1979
H.B. 383	Effective August 27, 1979
H.B. 409	Effective August 27, 1979
H.B. 412	Effective August 27, 1979
H.B. 452	Effective immediately
H.B. 454	Effective September 1, 1979
H.B. 467	Effective August 27, 1979
H.B. 480	Section 4-9, effective September 1, 1979 Sections 7 & 8, effective January 1, 1980
H.B. 540	Effective August 27, 1979

H.B. 544	Effective August 27, 1979
H.B. 567	Effective August 27, 1979
H.B. 571	Effective August 27, 1979
H.B. 679	Effective August 27, 1979
H.B. 726	Effective immediately
H.B. 735	Effective August 27, 1979
H.B. 760	Effective immediately
H.B. 771	Effective immediately
H.B. 783	Effective August 27, 1979
H.B. 792	Effective immediately
H.B. 793	Effective August 27, 1979
H.B. 801	Effective August 27, 1979
H.B. 825	Effective August 27, 1979
H.B. 865	Effective August 27, 1979
H.B. 867	Effective August 27, 1979
H.B. 882	Effective August 27, 1979
H.B. 916	Effective August 27, 1979
H.B. 962	Effective August 27, 1979
H.B. 1012	Effective immediately
H.B. 1061	Effective September 1, 1979
H.B. 1106	Effective August 27, 1979
H.B. 1109	Effective August 27, 1979
H.B. 1134	Effective immediately
H.B. 1135	Effective August 27, 1979
H.B. 1146	Effective September 1, 1979
H.B. 1147	Effective immediately
H.B. 1150	Effective August 27, 1979
H.B. 1176	Effective August 27, 1979
H.B. 1209	Effective September 1, 1979
H.B. 1275	Effective September 1, 1979
H.B. 1323	Effective January 1, 1980
H.B. 1325	Effective September 1, 1979
H.B. 1340	Effective August 27, 1979
H.B. 1362	Effective August 27, 1979
H.B. 1389	Effective September 1, 1979
H.B. 1418	Effective immediately
H.B. 1451	Effective August 27, 1979
H.B. 1460	Effective immediately
H.B. 1463	Effective August 27, 1979
H.B. 1483	Effective August 27, 1979
H.B. 1484	Effective immediately
H.B. 1493	Effective August 27, 1979
H.B. 1499	Effective immediately
H.B. 1503	Effective August 27, 1979
H.B. 1506	Effective September 1, 1979
H.B. 1552	Effective immediately
H.B. 1554	Effective immediately
H.B. 1571	Effective September 1, 1979
H.B. 1612	Effective immediately
H.B. 1628	Effective September 1, 1979
H.B. 1647	Effective immediately
H.B. 1673	Effective September 1, 1979
H.B. 1704	Effective August 27, 1979
H.B. 1714	Effective August 27, 1979
H.B. 1730	Effective August 27, 1979

H.B. 1740	Effective August 27, 1979
H.B. 1741	Effective September 1, 1979
H.B. 1742	Effective September 1, 1979
H.B. 1773	Effective September 1, 1979
H.B. 1794	Effective August 27, 1979
H.B. 1808	Effective August 27, 1979
H.B. 1812	Effective September 1, 1979
H.B. 1814	Effective August 27, 1979
H.B. 1816	Effective immdiately
H.B. 1824	Effective August 27, 1979
H.B. 1831	Effective August 27, 1979
H.B. 1834	Effective September 1, 1979
H.B. 1845	Effective immediately
H.B. 1872	Effective August 27, 1979
H.B. 1898	Effective September 1, 1979
H.B. 1905	Effective immediately
H.B. 1912	Effective August 27, 1979
H.B. 1918	Effective September 1, 1979
H.B. 1924	Effective immediately
H.B. 1936	Effective August 27, 1979
H.B. 1974	Effective August 27, 1979
H.B. 1989	Effective August 27, 1979
H.B. 1990	Effective September 1, 1980
H.B. 2008	Section 3 immediately
	Sections 1 & 2, effective September 1, 1980
H.B. 2030	Effective immediately
H.B. 2046	Effective August 27, 1979
H.B. 2062	Effective September 1, 1979
H.B. 2071	Effective August 27, 1979
H.B. 2096	Effective September 1, 1979
	Sections 4 & 5, effective September 1, 1980
H.B. 2100	Effective immediately
H.B. 2104	Effective August 27, 1979
H.B. 2107	Effective September 1, 1979
H.B. 2115	Effective immediately
H.B. 2121	Effective September 1, 1979
H.B. 2122	Effective immediately
H.B. 2146	Effective immediately
H.B. 2160	Effective immediately
H.B. 2180	Effective August 27, 1979
H.B. 2181	Effective August 27, 1979
H.B. 2197	Effective immediately
H.B. 2205	Effective August 27, 1979
H.B. 2206	Sections 1-3, 13-16, effective August 27, 1979
	Sections 4-12, effective September 1, 1979
H.B. 2212	Effective August 27, 1979
H.B. 2229	Effective immediately
H.B. 2234	Effective August 27, 1979
H.B. 2241	Effective immediately
H.B. 2265	Effective August 27, 1979

(June 14, 1979)

S.B. 296	Effective August 27, 1979
S.B. 309	Effective immediately
S.B. 378	Effective August 27, 1979
S.B. 877	Effective January 1, 1980
S.B. 1156	Effective August 27, 1979
S.B. 1176	Effective immediately
S.B. 1195	Effective August 27, 1979
S.B. 1249	Effective September 1, 1979
H.B. 306	Effective August 27, 1979
H.B. 1455	Effective immediately
H.B. 1625	Effective August 27, 1979
H.B. 1719	Effective August 27, 1979
H.B. 1876	Effective immediately
H.B. 1906	Effective immediately
H.B. 2080	Effective immediately
H.B. 558	Effective August 27, 1979

PROCLAMATIONS BY THE GOVERNOR

The following Proclamations by the Governor state reasons for vetoing or filing a bill without signature:

41-1714

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith veto Senate Bill 457, because of the following objection:

This bill was a companion bill to House Bill 1565 which also passed. House Bill 1565 represents a slightly more refined version of the matter dealing with the filing of briefs in criminal cases, and both authors have agreed that I should veto this bill and let House Bill 1565 become law. Therefore, I veto Senate Bill 457.

41-1713

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith veto House Bill 1228, because of the following objection:

This is a companion bill to Senate Bill 755. Since the senate bill passed first and they are identical bills dealing with the authority of the Texas Employment Commission to sell and convey certain state-owned land and the disposition of the proceeds, and I intend to sign Senate Bill 755, I therefore veto House Bill 1228 to avoid duplicity.

41-1712

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith veto Senate Bill 517, because of the following objections:

This bill is exactly the same as House Bill 455 relating to the bonds required of school bus drivers, which I have already signed. Therefore, I veto Senate Bill 517.

41-1711

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith veto House Bill 2167, because of the following objection:

House Bill 2167 would remove Houston County from the applicability of the Uniform Wildlife Regulatory Act. If we continue to remove counties from the Uniform Wildlife Act, then before long there is no "uniform" act. I previously vetoed a bill which gave the commissioners' court of Comal County the authority to veto portions of the Uniform Wildlife Act, which the legislature passed notwithstanding my objections. This bill is much more severe in regards to the Uniform Wildlife Act than the Comal County bill, and therefore I veto it.

41-1710

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith file House Bill 1510 without my signature for the following reason:

House Bill 1510 is anticipatory legislation for a proposed constitutional amendment which will permit a bank or group of banks to maintain, operate, or utilize unmanned teller machines at locations away from their principal place of business within the county or city of their domicile. I do not wish to express an opinion on this matter as this is a matter the people of Texas will decide for themselves. Therefore, I file this bill without my signature.

41-1709

June 7, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I herewith file House Bill 2252 without my signature for the following reasons:

House Bill 2252 allows the Terry Memorial Hospital District to sell or dispose of real property of the district at the discretion of the board members. However, sales of land prior to the enactment of this law are validated, unless they are currently in litigation and that litigation results in the disapproval of the sale. I do not wish to be put in the position of approving a sale that may have been made by someone or some group without authority, and therefore I file this bill without my signature.

41-1715

June 12, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1689 because of the following objections:

This bill changes the order of argument in a criminal case. The present law states that the State's counsel shall have the right to make the concluding address to the jury. This has been the case for many years and insures that the peoples case through the state's counsel has the last word to the jury. This bill changes this historical pattern and requires the state's counsel to "make a full and complete opening address" and yet not requiring the defendant's counsel to do the same thing. The bill states the state's counsel has the right to a concluding address to the jury, but it is obvious the bill is designed to change the procedure

that requires the state to have the final say to the jury. The new effect of this bill is to weaken the states case by altering how the state presents it case. I am convinced the vast majority of Texans are opposed to this, and I therefore veto House Bill 1689.

41-1716

June 12, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1540 because of the following objections:

This bill has some good parts to it, such as preventing the sale of merchandise or the solicitation of funds at state roadside parks or scenic overlooks. However, the bill also prohibits someone from sleeping in their car overnight at one of these state roadside parks, nor could you sleep in a trailer, or recreational vehicle either. This goes against one of the reasons for the creation of these rest areas. A person, who may be sleepy would have the alternative of driving on, or stopping beside the road to sleep, both of which could be very dangerous. The Texas Department of Highways and Public Transportation did not request or sponsor this bill. I therefore veto House Bill 1540.

41-1717

June 12, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2269 because of the following objections:

This bill makes certain exceptions to the nepotism laws. The first exception states that if two people are married on the date that one of them is appointed or elected to office and one of them has been continuously employed for two years by one of them, the spouse is considered to have been employed for two years, thus taking them out of the nepotism laws. The second exception provides that if after a person is elected or appointed he marries an individual who holds a position subject to the officer's appointment, the spouse will be treated as having been employed for two years, thus coming under the general exception. These sort of exceptions subvert the intent of the nepotism laws and are not good public policy. Why should an officer who is married after he takes public office be allowed to employ his wife when other officers cannot? I therefore veto House Bill 2269.

41-1718

June 12, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 590 because of the following objections:

This bill had good intentions by allowing persons convicted of a crime to obtain a state license and engage in certain occupations licensed by the state. The problem with this bill is that it allows licensing even where the crime had a direct relation to the occupation licensed if the person has been "rehabilitated". However, the standards as to what constitutes rehabilitation are so low that practically every released criminal would qualify. Criteria like satisfactory completion of parole, one year lapse since release from prison, or letters of reference are certainly not sufficient to establish real rehabilitation. Under this bill it would be possible for former criminals to be licensed for just any

occupation, including law enforcement, private security, or the practice of law. The intent of the bill to give rehabilitated criminals a better chance to rejoin the mainstream of society is a good one but the safeguards are so poorly drawn as to jeopardize one of the main reasons for having state licensing programs. Governor Briscoe vetoed a similar bill in 1977, and I also hereby veto House Bill 590.

41-1719

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 124 because of the following objections:

This bill has many good features that I support, such as raising the mandatory retirement age for employees of state agencies and political subdivisions from 65 to 70 and lowers the minimum age to 18. However, it makes one departure that I object to. That provisions lets a retired district judge, receive retirement pay one year and practice law the next year by opting in and out of retirement. The current law states that a retired district judge may not appear as an attorney at law in any court in this state. It is obvious the unfair advantage such a person would have in practicing before a bench he may have vacated a few years before. This is one reason retired judges retirement benefits are generous and are based on a system that is not actuarially sound. Therefore, I veto Senate Bill 124.

41-1720

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 491 because of the following objections:

Currently the Parks and Wildlife Commission allow one day of hunting in Sea Rim State Park. The Commission under current law according to sound biological management practices could allow a longer season. The purpose of this bill when all is said and done is to have a legislative mandate to lengthen the season in Sea Rim State Park. As stated before, the Parks and Wildlife Commission have biologists and game management experts to properly determine what is a proper hunting season and the legislature does not. I therefore veto Senate Bill 491.

41-1721

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1268 because of the following objections:

When this bill was introduced it was for the purpose of raising the Willacy County Hospital District tax from the current .04¢ per $100 valuation for maintenance and operation and the care of indigents to .08¢ per $100 if the customary 2/3 vote of the taxpaying electorate so voted. During the legislative process however, the 2/3 vote to raise the hospital tax was lowered to a simple majority and the Board of Directors of the hospital district would hold the election rather than the Commissioners Court. This was not the intent of the Board of Directors of the hospital district when they asked for the raise in taxing limits. This represents a major change in the legislation that created the hospital

district and approved by the voters before the Willacy County Hospital District could go into effect. Therefore, I veto Senate Bill 1268.

41-1722

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 490 because of the following objections:

There is currently no statutory requirement that peace officers employed as investigators by district, criminal district, or county attorneys receive longevity pay, although most metropolitan counties provide such longevity pay voluntarily. This bill would affect some 65 counties and require them to pay not less than $5.00 per month for each year of service up to and including 25 years. This would cost the local units of government over $50,000 per year. There is no provision for the state to reimburse the local units of government for spending mandated by the state. As stated above, under current law the local units of government can pay this or not as their current financial condition allow. Therefore, I veto Senate Bill 490.

41-1723

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 851 because of the following objections:

This bill is practically the same as House Bill 1135 which I intend to sign, but is not quite as up to date. Both deal with the presence of the defendant in a criminal proceeding. To avoid duplicity Itherefore veto Senate Bill 851.

41-1724

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 861 because of the following objections:

This bill makes essentially the same changes, and is therefore the same bill as House Bill 1571 which I intend to sign. Both bills deal with notification to the clerk of the trial court when a capias has been executed and to the Court of Criminal Appeals when its mandate has been carried out. To avoid duplicity I therefore veto Senate Bill 861.

41-1725

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1096 because of the following objections:

This bill makes the same amendments to the Controlled Substances Act which have already been accomplished in Senate Bill 322 which I will sign. Therefore to avoid duplicity, I veto House Bill 1096.

41-1726

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 938 because of the following objections:

House Bill 938 started out in the legislative process to change the date for Sunset Act purposes of the Department of Water Resources, the Water Development Board, and the Water Commission from September 1, 1985 to September 1, 1981. This was brought about by the combination of these three agencies. However, in the Senate a floor amendment was added that changed eight agencies back from September 1, 1981 to September 1, 1983. If this trend were to continue then each year there would be bills to move various agencies termination dates to times in the future and sets a potentially dangerous precedent which could undermine the effectiveness of the Texas Sunset Act. I therefore veto House Bill 938.

41-1727

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 595, relating to claims against units of government based on written contracts, for the following reasons:

This bill, if it became law, would make two important changes in state law governing claims against governmental entities based on written contracts. It would abolish the state's defense of immunity from suit without permission as to such claims, and it would make the state and each unit of local government liable on a written contract "as if it were a private corporation."

I believe that neither of these changes in state law should be made without thorough and careful consideration of the effect each change will have on units of government as well as the public. This bill passed both houses of the legislature in the last week of the legislative session. As well as I can determine, the full effect of the bill has not received the sort of study it deserves.

A persuasive case may be made for abolishing the defense of sovereign immunity in contract actions. The defense was abolished to a limited extent as regards personal injury claims by enactment of the Texas Tort Claims Act in 1969. The existence of a legal doctrine that requires a private party to obtain consent of the legislature, generally granted by passage of a resolution, in order to have his day in court, is difficult to defend. At the very least, this tends to delay, if not deny, justice to private entities that have legitimate claims against state government. Under current law, a private party may not be required to obtain the consent of a unit of local government to file a suit on a written contract, or any claim for that matter; immunity from suit without permission applies only to the state. This distinction is difficult to justify. Furthermore, eliminating the need for legislative consent for each individual suit would free the legislature from the burden of having to pass numerous resolutions to sue the state at each regular session.

If House Bill 595 did nothing but abolish the defense of immunity from suit without legislative permission, I might be inclined to approve it, provided that I could be satisfied that the attorney general's office were prepared for whatever increased case load might result. However, the provision that the state and each other unit of government is liable on its written contracts "as if it were a private corporation" raises questions in my mind that make it impossible for me to permit this bill to become law.

Although in most instances the contractual liability of units of government and of private corporations are parallel, there are instances in which they diverge. There are many more legal safeguards applicable to contracting by units of government than are applicable to contracting by private corporations. The law

is rather strict, for example, on the question of who has legal authority to enter a binding contract on behalf of a unit of government. A contract of a unit of government may be held void if competitive bidding or other applicable procedural requirements are not satisfied. These safeguards were created to protect the public interest, which is affected to a much greater extent by contracting by government than by contracting by private entities.

A corporation is frequently held liable on a contract even though the agent who executed the contract on behalf of the corporation exceeded his authority. Under similar circumstances, a contract made on behalf of a unit of government is more likely to be held void.

Any change in the law governing the contractual liability of units of state and local government must be carefully drafted to preserve proceduraal safeguards that protect the public interest. House Bill 595, in my opinion, fails to meet this test.

41-1728

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1558 because of the following objections:

This bill had the good purpose to cut down on the waste in Texas Government publications. This bill would authorize the state auditor to standardize the style and format of agency periodic reports and other forms of printed communications and to issue these rules to all agencies in the executive branch of state government. It would prohibit the use of color photographs in official documents. This could work a hardship on agencies such as the Texas A & M Agricultural Extension Service in printing brochures to show various pests and plant diseases, and put the Industrial Commission at a disadvantage in trying to attract industry to Texas. It places a severe burden on the State Auditor trying to design forms for every agency. For these reasons I veto House Bill 1558.

41-1735

June 13, 1979

Pursuant to Article IV, Section 14, of the Constitution of Texas, I hereby veto House Bill 2243 because of the following objections:

This bill would prohibit the hunting of spike deer in Austin County. This would restrict the authority of the Parks and Wildlife Commission to manage the wildlife resources in Austin County along sound biological lines and in the best interest of those resources, and is opposed by the Commission. Therefore, I veto House Bill 2243.

41-1736

June 13, 1979

Pursuant to Article IV, Section 14 of the Constituion of Texas, I hereby veto House Bill 2199 because of the following objections:

This bill would prohibit the killing of racoon in Brazoria County except to protect livestock, poultry, and property, and except during open season which is defined as November 1 to December 31 inclusive. The problem is this opens racoon season November 1 which is one month before the season opens in

surrounding counties. This would encourage racoons to be killed in surrounding counties and brought to Brazoria county and claim they were killed there and let the pelts be sold. Parks and Wildlife Commission is opposed to this, and therefore I veto House Bill 2199.

41-1737

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1382 because of the following objections:

The purposes of this bill I have no particular quarrel with, to create a joint committee on Administrative Rules Review to review proposed or existing agency rules and suspension of proposed rules under certain findings. It also provides for review of proposed and existing rules. The problem comes in that this is not anticipatory legislation based on a proposed constitutional amendment passing that would allow this. This bill runs into the separation of powers doctrine stated in Article II of the Constitution of Texas. This is precisely why there is a proposed constitutional amendment. The Legislative branch of government will be reviewing acts of the Executive branch of government. If this bill were anticipatory legislation then I would let it go to the Secretary of State without signature as I have done on all other anticipatory bills. I cannot in good conscience sign this and therefore I veto House Bill 1382 at this time.

41-1738

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 635 because of the following objections:

This bill would require the Board of Health to appoint a midwifery board which would establish voluntary training course and examination in order to supposedly improve the quality of midwife services. All this would do would allow some midwives to pass themselves off as professionals and this state recognition of midwifery would give credibility to a group that may or may not have credibility. The public would have no way of knowing whether midwives were state sanctioned or not because the whole procedure is "voluntary". No midwife, practicing in public, would be required to take any course or exam. Although the purposes of the bill are noble it is questionable if the public would be protected one bit, and I therefore veto House Bill 635.

41-1739

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2186 because of the following objections:

House Bill 2186 gives Hays County essentially the same rights of veto power as Comal County sought and received notwithstanding the objections of the governor to veto proclamations of the Parks and Wildlife Commission. As stated in my objections to the Comal County bill I feel we should have a uniform wildlife regulation throughout the state. To allow counties to opt in and out and take certain provisions and not others destroys uniformity. Parks and Wildlife Commission has biologists and game management specialists that county commissioners do not have. Therefore, I veto House Bill 2186.

41-1740

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 27 because of the following objections:

I do not want to imply by vetoing this bill that I disapprove of the Prosecutors Council and the work that they do. That is not the case. The problem that I have with this bill is the provision in Section 7 that states "The Legislature is authorized to appropriate in the General Appropriation Act sufficient funds from the criminal justice planning fund to finance the purpose of this Act." The grants of the Criminal Justice Planning Fund have traditionally been the prerogative of the Criminal Justice Council to expend as they see fit, and the Council is appointed by the Governor. It may very well be that the council will want to fund the Prosecutors Council as they have done in the past. I object to the discretion of the Criminal Justice Council being taken away a piece at a time, and therefore I veto Senate Bill 27.

41-1741

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby file House Bill 304 without my signature for the following reasons:

This is anticipatory legislation dealing with loans to small farmers that would only become effective if a proposed constitutional amendment passes. As I have on other anticipatory legislation I file this without my signature so the people of Texas can make up their own minds on this matter.

41-1742

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1256 because of the following objections:

Currently, the state is liable and pays the damages for a state employee who is found guilty of a negligent act or of the deprivation of a right, privilege, or immunity secured by the Constitution. This bill would provide that the state is also liable for damages for a medical or psychological consultant or social psychotherapist under contract to the state who is found guilty of negligence or deprivation of a person's constitutional rights. The Legislature itself created a few years ago the so called profession of social psychotherapy, and now the Legislature wants to pay for damages social psychotherapists may incur as listed above when under contract to the state. This bill if enacted would of course open the door to include even more groups in the future. I can see no reason why social psychytherapists need this special treatment, and I therefore veto Senate Bill 1256.

41-1743

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1155 because of the following objections:

Like Senate Bill 1154 which attempts to solve a problem between the City of Houston and the City of Clear Lake City, this would have provided the allocation of ad valorem taxes between a city and a conservation and reclamation district to a resident where the same services are provided to the resident by both entities. Again, a majority of the people in Clear Lake City are opposed to this bill as they are to Senate Bill 1154, and if the people affected are opposed, then I therefore veto Senate Bill 1155.

41-1744

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1154 because of the following objections:

This bill would have given the Clear Lake City Water Authority the power to provide services, including solid waste disposal, parks, fire prevention, road and street maintenance and emergency medical service. However, the majority of people in Clear Lake City are opposed to this bill. They prefer to deannex themselves from Houston, and feel they have not had an opportunity to exercise this option. They feel that this bill will weaken their efforts. In addition, the conference committee assigned to work out the differences between the House and Senate versions, never met, yet a conference committee report was signed. If the people in the area do not want this bill, I therefore veto Senate Bill 1154.

41-1745

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 785 because of the following objections:

This bill relates solely to the District Courts of Dallas County and expands greatly existing law which permits the appointment of special Masters now used in domestic relations cases to apply to all District Courts of Dallas County. It is the opinion of some that District Judges of the State of Texas are elected representatives of the people under the provisions of the Constitution of Texas and the powers and duties delegated to the District Judges cannot be further delegated. Further the qualifications of District Judges are set forth in the Constitution in Article V, Section 7. Under Senate Bill 785 the qualifications of a Master are only that he or she be an attorney licensed to practice law in Texas, and are not elected by anyone and responsible only to the District Judge. Further Senate Bill 785 applies to only Dallas County and does not meet the requirements of Article III, Section 56 of the Constitution. Finally, Senate Bill 785 raises the question of whether or not the right to trial by jury is abrogated under proceedings provided in the bill. No fiscal note is attached to the bill letting the people of Dallas know how much in local funds would be required for the Masters. For these reasons I therefore veto Senate Bill 785.

41-1746

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 210 because of the following objections:

Some may argue that the concept of single member districts for local, appointive boards, like that of the Dallas County Hospital District and other

local boards, has merit. Except for the observations made below, I do not address the merits of that question in this message.

My reasons for disapproval are as follows:

1. SB 210 is mechanically and procedurally deficient. In establishing of county-wide system of single-member districts, SB 210 ties the boundaries of the districts irrevocably and permanently to the boundaries of legislative districts numbered 33A through 33R as they existed on a date certain in the past. Fundamentally, any system of single-member districts must allow for shifts in population coupled with the power to redefine boundaries. SB 210 does not grant the power to redefine boundaries either to the Commissioners' Court of Dallas County or to the board of the district. Thus, the local community is given no power or ability to extricate itself from an obvious constitutional defect, with the result that the courts would be called upon to cure a problem which the legislature itself created.

2. The legislature should not actually draw the lines of single-member districts for local governments, either elective or appointive. When it is determined that single-member districts for local communities is desirable as a matter of State policy, the legislature should limit its role to one of mandating that local districting be established through the local, affected agencies in accordance with constitutional standards. Neither the legislature nor the Governor's Office is equipped to fairly define the boundaries of all local communities in Texas where single-member districts might be desirable, and that precedent should not be established in a single instance as is done in SB 210.

In this action, I neither approve or disapprove the concept of single-member districts for appointive local boards. I do observe, however, that SB 210 establishes a precedent in an essentially local instance that has statewide implications for other hospital districts and hundreds of other local, appointive boards such as planning and zoning commissions, airport boards, housing authorities and others. It is thus a question of major state policy and should be considered on that basis, if at all. It should not be considered by the legislature as a matter of purely local significance. I consider this and either one of the enumerated reasons to be a sufficient reason for disapproving and vetoing Senate Bill 210.

41-1747

June 13, 1979

Pursuant to Article IV, Section 14 of the Constituion of Texas, I hereby veto House Bill 1626 because of the following objections:

House Bill 1626 is better known as the omnibus courts bill, creating some twenty new district courts. From 1969 to 1978 there have been 124 district courts created. Of these 121 have been appointive and only three have been elective. Traditionally, all new courts are filled by gubernatorial appointment as set forth in the state constitution. It was only in 1977 that any elective courts were passed by the legislature. This bill greatly expands upon this departure from tradition accorded previous governors and I therefore veto House Bill 1626.

41-1748

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby file House Bill 1474 without my signature for the following reasons:

This is anticipatory legislation dealing with notary publics that is only effective if a proposed constitutional amendment passed that would allow this. As I have done on other anticipatory legislation I file this without my signature to allow the people of Texas to make up their own minds on this matter.

41-1749

June 13, 1979

Pursuant to Article IV, Section 14 of the Constituion of Texas, I hereby veto House Bill 1082, because of the following objections:

This bill would allow all types of local governments to be self-insured. This is a concept that requires careful planning, intense actuarial studies, and close regulation. The original intent of House Bill 1082 was completely changed and undebated with a floor amendment in the Senate during consideration of a consent calendar. The provisions of the amendment were included in a separate Senate bill which did not have sufficient support to get out of committee.

This bill delegates the authority for local governments to self insure all lines of insurance without having to comply with any of the safeguards provided in the Texas Insurance Code, and precludes any regulation by the State Board of Insurance. It is void of any guidelines regarding proper underwriting techniques, safety engineering, loss prevention, reserving standards, examination and auditing safeguards, claims payment practices, actuarial determinations, or other safeguards, such as spreading of risk through adequate reinsurance.

This bill provides no limitation as to the amount of exposure nor a requirement that the exposure be funded in a manner that is actuarially sound. The potential for losses to exceed funding could result in an undue burden on the taxpayers of the political subdivision.

This bill certainly deserved more than a mere amendment to another bill on a consent calendar, and I therefore veto House Bill 1082.

41-1756

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2165.

This bill had good intentions of which I agree. Present law provides for fines for the parents and guardians of habitually truant students. In cases in which a parent or guardian can show they are unable to compel attendance of a truant child, the child may be placed in a state juvenile training institution. This bill would allow a court with juvenile jurisdiction in a county over 500,000 to order the detention of a truant child in the appropriate juvenile facility for not more than one day or if the truancy is habitual not more than three days. I personally find no problem with this. However the Criminal Justice Division administers and receives federal funds under the Juvenile Justice and Delinquency Prevention Act. Last year $3,797,000 in fiscal 1979 for the funding of projects throughout the state. It is estimated that the Criminal Justice Division will receive $1,739,000 for fiscal 1980. This bill is in direct conflict with the federal Juvenile Justice and Delinquency Prevention Act, and will make Texas ineligible for the receipt of federal funds under the Act. Therefore, I have no choice but to veto House Bill 2165.

41-1729

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 389 because of the following reasons:

Part of this bill I approve of. The part that allows cities lying in two or more counties to hold local option liquor elections. The technicality which prevents this presently is that the county clerk must call and administer an option election and when a city is in two or more counties it is not clear which county clerk has authority. This bill would solve this problem by specifying that the city secretary and the governing body of the city can perform the functions usually performed by the county clerk in these types of elections.

The problem with the bill is it blindly validates all prior proceedings in connection with such elections; further, the validation clause contains no provision in reference to a specific election to be validated, but rather validates all elections or proceedings "at which the ballots were prepared".

The unrestricted validation of acts and proceedings unknown in scope or number may be an unjustified risk to the integrity of our traditional local option system and may pose the threat of considerable expense to local units of government as well as to the state. Therefore, I hereby veto Senate Bill 389.

41-1730

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1077 for the following reasons:

This bill amends present law by encouraging the processing of solid waste for reuse and applies to all local governments with which I have no particular disagreement. However, this bill authorizes all local governments to enter into contracts like those described in my veto message for Senate Bill 1076, the same being payable from taxes without a local election. I feel that anytime property taxes may be raised because of some contract the local authority may enter into, that at the very least the property taxpayers should have a vote on the matter. This goes to the very core of my taxpayers bill of rights that I have long espoused. Therefore, I veto Senate Bill 1077.

41-1731

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1076, because of the following objections:

This bill generally authorizes certain conservation districts and other authorities (mostly river authorities) to issue revenue bonds for the purpose of developing and then leasing or selling solid waste recovery systems, with the products to be used for other useful purposes, such as fertilizer, full stacks, and the like. The bonds would be payable from lessee of the system, and from the proceeds of contracts with the city or other public agencies to supply garbage and other solid waste. Cities are authorized to contract to deliver minimum amounts of refuse to the issuer and to make minimum payments for such services. The cities' obligations to make payments can come from any sources, including local property taxes. This is the main feature of this bill. Thus, the River Authority Bonds are called "revenue" bonds, but they will in fact more likely be paid from local property tax levies while the Authority's bonds are outstanding.

The bill is of questionable merit. Under present law in other areas, such as Water or River Authorities, the ability to issue bonds indirectly secured by contracts with cities, are based on payments in turn payable from and made from local property taxes. However, an election to approve such contracts is sometimes required in the cities, even in cases of such necessities as water supply. In certain other instances, such elections are not required.

The question of profitable waste recovery is speculative at this point in technological development. In the past, some bonds were issued to build plants to make fertilizer out of garbage. A judgement was rendered against Houston in such a case for approximately $4 million.

It would seem in cases of speculative ventures involving exposure of local property taxes that elections should be a minimum requirement. Therefore, I veto Senate Bill 1076.

41-1732

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1273, because of the following objections:

This bill would permit general law cities to annex an adjoining municipal utility district under certain conditions, provided a majority of the residents of the MUD do not reject the annexation by petition. In accuality this bill deals with the City of Shoreacres and their attempt to annex the residents of BayMUD. A city of 1,500 wants to annex an unincorporated area of 2,500. Most of the people in the unincorporated area want to be annexed by La Porte rather than Shoreacres. Most of the people in the area are absolutely against this bill, and therefore I veto Senate Bill 1273.

41-1733

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1733, because of the following objections:

This bill is an amendment to the existing local Housing Authority Act. Under present law, while local housing authorities have the power to and do issue tax exempt revenue bonds (usually secured or purchased by the federal government) for low income housing purposes, a question exists as to whether they could under present law issue bonds for the purpose of acquiring mortgage loans. Historically, their activites have been generally confined to financing, constructing and operating low income multi-family housing projects.

The legislature this session has passed three bills dealing with mortgages for low and moderate income families. In looking at the three bills I feel it would be a mistake to sign all three. There could be a proliferation of bonds on the market making it more difficult for local governmental entities to sell bonds for traditional purposes. In addition Congress is proposing new rules that will drastically curtail the sale of these bonds. No one knows what these new rules will be. Of all the programs now in effect the one that has had the most adverse affect on the neighborhoods of the county is the placement of low income housing by housing authorities. They have in almost every instance resulted in the building and financing of "tomorrow's slums." Recent court decisions have mandated that where federal funds are involved low income housing must now be located in all areas of the community regardless of the desires of local officials or the zoning ordinances of affected cities.

I feel that something needs to be done to provide for lower interest rate mortgages for our lower and moderate income families. I have signed the State Housing Act (Senate Bill 296) which establishes a state agency that can obtain federal housing grants, similar to those established in 42 other states. Secondly, I have signed the City Housing Bill (House Bill 1876) which will allow cities to establish non-profit corporations to issue bonds for low interest rate mortgages. This bill allows local people, through their elected officials to take care of the local problems around the state. It would insure that the State Agency alone could not be used for political purposes by deciding where state money should flow to the exclusion of some city not in political favor with a particular administration. Therefore, because housing authorities are not elected I have decided, and hereby veto the Local Housing Authority Bill, House Bill 1733.

41-1734

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 888, because of the following objections:

This bill includes within the boundaries of the Lower Neches Valley Authority those portions of Polk and Orange Counties lying within the Neches River watershed, and withdraws from other districts, other than the Sabine River Authority, and territory lying within the new boundaries of the Lower Neches Valley Authority.

This bill has several problems which might affect its constitutionality. First, the caption makes it seem as if the bill affects only the Lower Neches River Authority, and yet it affects several other districts. Second, the bill seeks to amend existing law without giving reference to the law it amends, that is, what other districts will be changed. Finally, there is a question as to whether the notice requirement was fulfilled in each locality affected. For these reasons I therefore veto Senate Bill 888.

41-1750

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2142, because of the following objections:

This bill would treat the University of Texas at Austin differently than all other campuses of the University system in regard to Student Fees. I intend to sign House Bill 1389 which would treat all of the various campuses the same in regard to a Student Service Fee. The general bill (House Bill 1389) provides for a lower maximum fee than this bill, and therefore I veto House Bill 2142.

41-1751

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1708 for the following reasons:

This bill would go against established case law regarding acquisition by a county of a public interest in a private road. It would require that dedication of a private road for public use be by explicit, written communication to the county commissioners and would not allow verbal dedication, dedication by intent, public use, or public maintenance to be sufficient to establish a public interest.

This bill was designed to correct one situation, but this bill has the potential to change the status of thousands of roads all over the state. Public use and public maintenance have long been factors which allowed counties to acquire a public interest in private roads. This bill would be a major change which might have more negative effects than positive ones, and therefore I veto House Bill 1708.

41-1752

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1619, because of the following objections:

This bill as introduced made several changes in the commercial shrimp season and the daily trip limit for shrimp boats with which I have no particular quarrel. However, when the bill got to the Senate an amendment was placed on the bill which added the Fisheries Management Council, which apparently could not get passed by itself. The Fisheries Management Council, in my opinion, is totally unnecessary because it would duplicate the procedures already being done by the Parks and Wildlife Commission, and certainly would duplicate the job with which the Texas and Marine Council has been changed. Therefore, I veto House Bill 1619.

41-1753

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1480, because of the following objections:

This bill would allow the payment of a $5,000 additional lump sum death benefit to the survivor of members of the Employment Retirement System who died in the month of December 1978 prior to retirement. This bill would only benefit some nine people. What about the people who died in November 1978 or January 1979? They would get nothing. The idea may have been noble, but the results are poor, and therefore I veto House Bill 1480.

41-1754

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 772, because of the following objections:

This bill is better known as the Southwest Airlines Bill. It would prevent any city with a population greater than 800,000 namely Dallas and Houston from denying access to any air carrier, whether interstate or intrastate, to any public airport if the first stage length or last stage length is less than 600 miles, unless such denial by the city is found to be in the public interest of the State of Texas by the Texas Aeronautics Commission.

When the Dallas-Fort Worth Regional Airport was established there were commitments made by both the cities of Dallas and Fort Worth that all interstate air service would be served by the new Regional Airport. In various cases that have gone to the U.S. Supreme Court Southwest Airlines has been able to serve Dallas Love Field with intrastate air service. Now the airline wants to serve Dallas Love Field with interstate air service, and this violates the spirit and letter of agreement between the two cities in establishing the Regional Airport. Therefore, I veto Senate Bill 772.

41-1755

June 14, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 164, because of the following objections:

Section 3 of the Plumbing License Law of 1947 enumerates certain kinds of plumbing work that is permitted without a license and includes such work done outside the municipal limits of any city, town, or village in the state. This bill would amend Section 3 to permit this type of work outside cities within a county of less than 100,000. However, to do this type of work in a county of more than 100,000 outside of a city would require that a person hire a licensed plumber. This bill might more appropriately be entitled the licensed plumbers security act because for most work done in a county, outside of a city, would require a licensed plumber. In addition city plumbing inspectors would have the right in unincorporated areas to issue a citation to a person doing plumbing work if that person is not licensed. I can imagine how unhappy farmers would be to do some plumbing work around their farm and have a city plumbing inspector come give them a citation. I therefore veto Senate Bill 164.

JOURNAL OF THE SENATE
of the
STATE OF TEXAS

REGULAR SESSION
of the
SIXTY-SEVENTH LEGISLATURE

Convened January 9, 1979

Adjourned May 28, 1979

VOLUME III

Mrs. Margrette Vollers, Journal Clerk

CONTENTS

VOLUME III

Authors of Senate Bills and Senate Joint Resolutions 2333
History of Senate Bills in the Senate 2423
History of Senate Joint Resolutions in the Senate. 2578
History of Senate Concurrent Resolutions in the Senate. 2584
History of Senate Resolutions in the Senate 2597
History of House Bills in the Senate 2638
History of House Joint Resolutions in the Senate 2716
History of House Concurrent Resolutions in the Senate 2718
Index. 2738