H.B. 3179 (Brown) Relating to the creation, administration, powers, duties, operation, and financing of the Clear Creek Watershed Regional Flood Control District, granting the power of eminent domain, authorizing the issuance of bonds, providing for the levy, assessment, and collection of ad valorem taxes, and providing for a civil penalty. (31-0) (31-0)

BILLS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR

<table>
<thead>
<tr>
<th>Number</th>
<th>Senators Removing</th>
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<tbody>
<tr>
<td>H.B. 2133</td>
<td>Truan, Harris</td>
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<tr>
<td>H.B. 2898</td>
<td>Moncrief, Harris</td>
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<tr>
<td>H.B. 3169</td>
<td>Haywood, Harris</td>
</tr>
<tr>
<td>H.B. 3225</td>
<td>Truan, Harris</td>
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</table>

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer, Senator Harris in Chair, announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 10:42 a.m. adjourned until 11:00 a.m. today.

EIGHTY-FIRST DAY

(Saturday, May 27, 1995)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Mr. Stuart Bates, Seminarian, Episcopal Theological Seminary of the Southwest, Austin, offered the invocation as follows:

Almighty and everliving God, we pause now to acknowledge You and Your presence with us this day. And like King Solomon, we ask You for wisdom, the wisdom to legislate in truth and order,
always remembering justice and mercy. Give us a vision for what might be best for all of our citizens, as we trust in Your providential care of the great State of Texas. Your servants in the Senate say, strengthen us, O Lord, our rock and our redeemer. Through Christ Jesus we pray. Amen.

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

CO-SPONSOR OF HOUSE BILL 2477

On motion of Senator Haywood and by unanimous consent, Senator Zaffirini will be shown as Co-sponsor of H.B. 2477.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1995

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

The House has concurred in Senate amendments to H.B. 2032 by a record vote of 146 Ayes, 0 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 2644 by a non-record vote.

The House has concurred in Senate amendments to H.B. 433 by a non-record vote.

The House has concurred in Senate amendments to H.B. 3082 by a record vote of 144 Ayes, 0 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 1547 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2860 by a record vote of 145 Ayes, 0 Nays, 3 Present-not voting.

The House has concurred in Senate amendments to H.B. 3028 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2891 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2850 by a non-record vote.

The House has concurred in Senate amendments to H.B. 809 by a non-record vote.

The House has concurred in Senate amendments to H.B. 576 by a non-record vote.
The House has concurred in Senate amendments to H.B. 93 by a non-record vote.

The House has concurred in Senate amendments to H.B. 1612 by a record vote of 145 Ayes, 0 Nays, and 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 1362 by a record vote of 99 Ayes, 45 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 1020 by a record vote of 139 Ayes, 0 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 1023 by a non-record vote.

The House has concurred in Senate amendments to H.B. 1988 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2969 by a record vote of 147 Ayes, 0 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 713 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2610 by a record vote of 145 Ayes, 0 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to H.B. 2315 by a non-record vote.

The House has concurred in Senate amendments to H.B. 40 by a non-record vote.

The House has concurred in Senate amendments to H.B. 3111 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2603 by a non-record vote.

The House refused to concur in Senate amendments to H.B. 1367 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Dutton, Chair; Duncan, Smith, Shields, and De La Garza.

The House refused to concur in Senate amendments to H.B. 2550 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Madden, Chair; Berlanga, Harris, Talton, and Delisi.

The House refused to concur in Senate amendments to H.B. 1193 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Berlanga, Chair; Harris, Maxey, Rodriguez, and Glaze.
The House refused to concur in Senate amendments to H.J.R. 80 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Black, Chair; Craddick, R. Lewis, Chisum, and Kamel.

A point of order was sustained on Senate amendments to H.B. 325 and the House returns the bill for further consideration.

H.C.R. 235, Instructing the House enrolling clerk to make technical corrections to H.B. 1697.

H.C.R. 234, Instructing the House enrolling clerk to make corrections in H.B. 994.

The House refused to concur in Senate amendments to H.B. 2758 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Saunders, Chair; Yost, Mowery, Krusee, and B. Turner.

The House refused to concur in Senate amendments to H.B. 1433 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Hamric, Chair; Place, Hightower, Telford, and Ramsay.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1128. The House conferees are: Representatives H. Cuellar, Chair; Marchant, Patterson, Romo, and Hernandez.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 421. The House conferees are: Representatives Krusee, Chair; Howard, B. Turner, Hartnett, and Hamric.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1683. The House conferees are: Representatives Howard, Chair; Saunders, Chisum, Counts, and Hirschi.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1546. The House conferees are: Representatives Counts, Chair; Harris, Hirschi, Yost, and R. Lewis.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1542. The House conferees are: Representatives Allen, Chair; Luna, Edwards, McCoulskey, and Carter.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1509. The House conferees are: Representatives H. Cuellar, Chair; Hill, R. Cuellar, Wohlgemuth, and T. Hunter.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1295. The House conferees are: Representatives Hightower, Chair; Black, Bosse, Ramsay, and Seidlits.
The House has granted the request of the Senate for the appointment of a conference committee on S.B. 1013. The House conferees are: Representatives Oakley, Chair; Bailey, Hill, Allen, and Munoz.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 964. The House conferees are: Representatives Bailey, Chair; Brimer, Craddick, Yost, and Haggerty.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 913. The House conferees are: Representatives Naishat, Chair; Alvarado, Hartnett, Ehrhardt, and McDonald.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 673. The House conferees are: Representatives Berlanga, Chair; Hirschi, Glaze, Janek, and Delisi.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 667. The House conferees are: Representatives Janek, Chair; Berlanga, Maxey, Hirschi, and Eiland.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 374. The House conferees are: Representatives Junell, Chair; Gray, Black, Telford, and Eiland.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 15. The House conferees are: Representatives Place, Chair; Hightower, De La Garza, Talton, and Solis.

The House refused to concur in Senate amendments to H.B. 3021 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Kuempel, Chair; Kubiak, Moreno, Heflin, and Carter.

The House refused to concur in Senate amendments to H.B. 3101 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Pitts, Chair; Romo, Hudson, Brady, and Staples.

The House refused to concur in Senate amendments to H.B. 52 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives McCall, Chair; Park, Madden, Brady, and Hamric.

The House refused to concur in Senate amendments to H.B. 982 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives McDonald, Chair; S. Turner, Harris, Coleman, and Junell.

The House refused to concur in Senate amendments to H.B. 2569 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Brady, Chair; Goodman, Harris, H. Cuellar, and Van de Putte.
The House refused to concur in Senate amendments to **H.B. 1718** and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives S. Turner, Chair; Combs, Seidlits, Danburg, and Hochberg.

The House refused to concur in Senate amendments to **H.B. 1305** and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Gray, Chair; Black, Wilson, Solis, and Hightower.

The House refused to concur in Senate amendments to **H.B. 1826** and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Jackson, Chair; Corte, King, Culberson, and Johnson.

Respectfully,
Cynthia Gerhardt, Chief Clerk
House of Representatives

**SENATE RESOLUTIONS ON FIRST READING**

The following resolutions were introduced, read first time, and referred to the committees indicated:

- **S.R. 1243** by West Health and Human Services
  Directing the Texas Department of Health to conduct, in conjunction with the federal Centers for Disease Control and Prevention and with other state or federal agencies or institutions, a study of the current system by which deadly pathogens are manufactured and distributed.

- **S.R. 1267** by Wentworth Economic Development
  Recommending that the Texas Department of Insurance in conjunction with dental provider organizations in the state develop a clear set of guidelines and minimum standards for dental provider organizations to adhere to in order to ensure the solvency and efficiency of the industry and to provide adequate information and protection to dental plan members.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

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S.C.R. 122  S.B.  99  S.B.  527  S.B.  863  
S.C.R. 159  S.B. 101  S.B.  560  S.B.  867  
S.C.R. 160  S.B. 102  S.B.  572  S.B. 1074  
S.C.R. 163  S.B. 134  S.B.  626  S.B. 1090  
S.C.R. 166  S.B. 243  S.B.  642  S.B. 1261  
S.C.R. 170  S.B. 283  S.B.  707  S.B. 1391  
S.B.   3   S.B. 284  S.B.  727  S.B. 1443  
S.B.  39   S.B. 440  S.B.  733  S.B. 1606  
S.B.  45   S.B. 520  S.B.  780  S.B. 1674  
S.B.  72   H.B.  1   H.B.  632  H.B.  785  
H.B. 1454  H.B. 1642  H.B. 2289  
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CONFERENCE COMMITTEE ON HOUSE BILL 1367

Senator Ellis 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. 1367 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. 1367 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 Ellis, Chair; West, Patterson, Nixon, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 466

Senator Cain 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. 466 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. 466 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 Cain, Chair; Moncrief, Whitmire, West, and Brown.

CONFERENCE COMMITTEE ON HOUSE BILL 2294

Senator Armbrister 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. 2294 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. 2294 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 Armbrister, Chair; Montford, Lucio, Barrientos, and Wentworth.

CONFERENCE COMMITTEE ON HOUSE BILL 1662

Senator Zaffirini 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. 1662** 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. 1662** 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 Zaffirini, Chair;
Moncrief, West, Turner, and Harris.

**CONFERENCE COMMITTEE ON HOUSE BILL 2569**

Senator Harris 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. 2569** 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. 2569** 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 Harris, Chair;
Shapiro, Sibley, Brown, and Madla.

**CONFERENCE COMMITTEE ON HOUSE BILL 1305**

Senator Armbrister 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. 1305** 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. 1305** 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 Armbrister, Chair;
Henderson, Harris, Barrientos, and Wentworth.

**CONFERENCE COMMITTEE ON HOUSE BILL 958**

Senator Wentworth 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. 958** 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. 958 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 Wentworth, Chair; Lucio, Armbriester, Sibley, and Cain.

CONFERENCE COMMITTEE ON HOUSE BILL 1193

Senator Zaffirini 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. 1193 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. 1193 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 Zaffirini, Chair; Gallegos, Moncrief, Patterson, and Nixon.

CONFERENCE COMMITTEE ON HOUSE BILL 3049

Senator Montford 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. 3049 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. 3049 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 Montford, Chair; Truan, Moncrief, Ellis, and Brown.

CONFERENCE COMMITTEE ON HOUSE BILL 1419

Senator Cain 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. 1419 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. 1419 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 Cain, Chair; Nelson, Wentworth, West, and Armbrister.

**CONFERENCE COMMITTEE ON HOUSE BILL 752**

Senator Armbrister 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. 752 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. 752 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 Armbrister, Chair; Turner, West, Lucio, and Sims.

**CONFERENCE COMMITTEE ON HOUSE JOINT RESOLUTION 80**

Senator Montford, on behalf of Senator Sims, 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.J.R. 80 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.J.R. 80 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 Sims, Chair; Montford, Bivins, Armbrister, and Brown.

**CONFERENCE COMMITTEE ON HOUSE BILL 2754**

Senator Armbrister 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. 2754 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. 2754 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 Armbrister, Chair; Bivins, Whitmire, Lucio, and Wentworth.
CONFERENCE COMMITTEE ON HOUSE BILL 2550

Senator Harris 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. 2550 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. 2550 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 Harris, Chair; Sibley, Shapiro, Haywood, and Madla.

CONFERENCE COMMITTEE ON HOUSE BILL 3101

Senator Lucio 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. 3101 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. 3101 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 Lucio, Chair; Madla, Moncrief, Brown, and Nixon.

CONFERENCE COMMITTEE ON HOUSE BILL 1770

Senator Ellis 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. 1770 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. 1770 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 Ellis, Chair; Bivins, Wentworth, Rosson, and Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 3073

Senator Cain 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. 3073** 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. 3073** 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 Cain, Chair; Henderson, Wentworth, Ratliff, and Montford.

**SENATE RESOLUTION 1290**

Senator Brown offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **S.B. 840** to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add the text in SECTION 4 of the bill to read as follows:

SECTION 4. If **S.B. 1**, Acts of the 74th Legislature, Regular Session, 1995, is enacted and becomes law, Sections 46.11 and 46.12, Penal Code, as added by **S.B. 1**, have no effect and are repealed.

Explanation: This change is necessary to repeal Sections 46.11 and 46.12, Penal Code, as added by **S.B. 1**, Acts of the 74th Legislature, Regular Session, 1995, which contain conflicting provisions relating to weapon-free zones.

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

**SENATE RESOLUTION 1288**

Senator Gallegos offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **H.B. 2027** to consider and take action on the following matter:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text to read as follows:

If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.
Explanation: This change is necessary to clarify that the provisions of this Act are severable.

(2) Senate Rules 12.03(1) and (2) are suspended to permit the committee to omit text and to change text.

The omitted text reads as follows:
This Act takes effect September 1, 1995.

The changed text reads as follows:
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.

Explanation: This change is necessary to clarify that this Act takes effect immediately.

The resolution was read and was adopted by the following vote:
Yeas 30, Nays 0.

Nays: Harris.

SENATE RESOLUTION 1275

Senator Harris offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on H.B. 546 to consider and take action on the following specific matter:

Senate Rule 12.03(3) is suspended to permit the committee to add text in Section 50.504(e), Water Code, to read as follows: Review by the court is by trial de novo.

Explanation: This change is necessary to specify the standard of review to be applied by a district court in determining whether a board is complying with Section 50.504, Water Code.

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

SENATE RESOLUTION 1274

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences in S.B. 374 to consider and take action on the following specific matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to amend Section 18.01(a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), to read as follows:
(a) The Texas Racing Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, and except as provided by Subsections (b) and (c) of this section, the commission is abolished and this Act expires September 1, 1995.

Explanation: This action is necessary to continue the Texas Racing Commission for a two-year period and require a sunset review again in the upcoming biennium.

(2) Senate Rule 12.03(4) is suspended to permit the committee to amend the effective date provision of the bill to read as follows:

SECTION 3.01. (a) Except as provided by subsection (b) this Act takes effect September 1, 1995.
(b) Section 1.05 of this Act takes effect only if the 74th Legislature, Regular Session, 1995, does not enact other legislation that becomes law and would amend Section 18.01(a), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) to extend the sunset date of the Texas Racing Commission.

Explanation: This will allow the Texas Racing Commission to be continued for two years if it is not continued by passage of Sunset legislation under consideration.

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

SENATE RESOLUTION 1271

Senator Cain offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on H.B. 466 to consider and take action on the following matters:
(1) Senate Rule 12.03(3) is suspended to permit the committee to add text in proposed Article 61.03(a), Code of Criminal Procedure, to read as follows:

(a) A criminal justice agency that maintains criminal information under this chapter may release the information on request to:
(1) another criminal justice agency;
(2) a court; or
(3) a defendant in a criminal proceeding who is entitled to the discovery of the information under Chapter 39.

Explanation: This change adds "on request" and is necessary to authorize the release of information compiled under proposed Chapter 61, Code of Criminal Procedure, to a criminal justice agency, a court, or a defendant in a criminal proceeding if the criminal justice agency, court, or defendant requests the information.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text in proposed Article 61.03, Code of Criminal Procedure, to read as follows:
(c) A local criminal justice agency may not send information collected under this chapter to a statewide database.

Explanation: This change is necessary to limit statewide access to information collected under Chapter 61, Code of Criminal Procedure, by prohibiting local criminal justice agencies from sending information collected under Chapter 61, Code of Criminal Procedure, to a statewide database.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text in proposed Chapter 61, Code of Criminal Procedure, to read as follows:

Art. 61.06. DESTRUCTION OF RECORDS. Information collected under this chapter must be destroyed after two years if the individual has not been charged with criminal activity.

Explanation: This change is necessary to provide for the destruction of records collected under proposed Chapter 61, Code of Criminal Procedure.

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

SENATE RESOLUTION 1289

Senator Barrientos offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on S.B. 1396 to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text in the form of Section 43.0751, Local Government Code, to read as follows:

SECTION 1. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0751 to read as follows:

Sec. 43.0751. STRATEGIC PARTNERSHIPS FOR CONTINUATION OF CERTAIN DISTRICTS. (a) In this section:

(1) "District" means a water control and improvement district or a municipal utility district created or operating under Chapter 51 or 54, Water Code.

(2) "Limited district" means a district that, pursuant to a strategic partnership agreement, continues to exist after full-purpose annexation by a municipality in accordance with the terms of a strategic partnership agreement.

(3) "Strategic partnership agreement" means a written agreement between a municipality and a district that provides terms and conditions under which services will be provided and funded by the parties to the agreement and under which the district will continue to exist for an extended period of time if the land within the district is annexed for limited or full purposes by the municipality.

(b) The governing bodies of a municipality and a district shall negotiate and may enter into a written strategic partnership agreement for
The governing bodies of the municipality and the district shall evidence their intention to negotiate such an agreement by resolution, each of which resolutions shall specify an expiration date if the other governing body fails to adopt a resolution under this section on or before the specified date. The governing body of a municipality that has evidenced its intention by unexpired resolution to enter into negotiations with a district for an agreement under this section may not initiate proceedings to annex the district under any other section of this code prior to the expiration of two years after the adoption date of the resolution unless the municipality has previously instituted annexation proceedings in granting consent to the creation of the district prior to January 1, 1995.

(c) A strategic partnership agreement shall not be effective until adopted by the governing bodies of the municipality and the district. The agreement shall be recorded in the deed records of the county or counties in which the land included within the district is located and shall bind each owner and each future owner of land included within the district’s boundaries on the date the agreement becomes effective.

(d) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be in the format prescribed by Section 43.123(b) and must be published at least once on or after the 20th day before each date. Notice of public hearings conducted by the governing body of a district under this subsection shall be given in accordance with the district's notification procedures for other matters of public importance. Any notice of a public hearing conducted under this subsection shall contain a statement of the purpose of the hearing, the date, time, and place of the hearing, and the location where copies of the proposed agreement may be obtained prior to the hearing. The governing bodies of a municipality and a district may conduct joint public hearings under this subsection, provided that at least one public hearing is conducted within the district. A municipality may combine the public hearings and notices required by this subsection with the public hearings and notices required by Section 43.124.

(e) The governing body of a municipality may not annex a district for limited purposes under this section or under the provisions of Subchapter F until it has adopted a strategic partnership agreement with the district. The governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district.

(f) A strategic partnership agreement may provide for the following:

(1) limited-purpose annexation of the district under the provisions of Subchapter F provided that the district shall continue in existence during the period of limited-purpose annexation;
(2) such amendments to the timing requirements of Sections 43.123(d)(2) and 43.127(b) as may be necessary or convenient to effectuate the purposes of the agreement;

(3) payments by the municipality to the district for services provided by the district;

(4) annexation of any commercial property in a district for full purposes by the municipality, notwithstanding any other provision of this code or the Water Code, except for the obligation of the municipality to provide, directly or through agreement with other units of government, full provision of municipal services to annexed territory, in lieu of any annexation of residential property or payment of any fee on residential property in lieu of annexation of residential property in the district authorized by this subsection.

(5) a full-purpose annexation provision that specifies one of the following:

(A) the date on which the land included within the district's boundaries shall be converted from the municipality's limited-purpose jurisdiction to its full-purpose jurisdiction, provided that such date shall not be later than 10 years after the effective date of the strategic partnership agreement; or

(B)(i) terms for payment of an annual fee to the municipality by the district in lieu of full-purpose annexation, the form in which each such payment must be tendered, a method of calculating the fee, and the date by which each such payment must be made; failure by a district to timely make an annual payment in lieu of full-purpose annexation in the amount and form required by a strategic partnership agreement shall be the only ground for termination of the agreement with respect to annexation at the option of the municipality;

(ii) to determine a reasonable fee to be derived from residential property in a district, the municipality or the district may request a cost-of-service study by an independent third party agreeable to both parties if cost-of-service data prepared by the municipality is not acceptable. Both parties shall be equally responsible for the cost of the study, which shall include an evaluation of the estimated annual cost of providing municipal services to the residential portion of the district over the next 10 years and the estimated annual amount of ad valorem taxes from residential property the city would receive on full-purpose annexation of the district over the next 10 years. The fee shall not exceed the estimated annual amount of residential ad valorem taxes that would be derived by full-purpose annexation of the district, less the estimated annual amount required to provide municipal services to the residential property in the district if annexed for full purposes. A fee determined through this methodology is subject to renegotiation every 10 years at the request of either party to the agreement following the same procedure used to set the fee in the original agreement. This methodology does not apply to fees from commercial property;

(6) conversion of the district to a limited district including some or all of the land included within the boundaries of the district, which
conversion shall be effective on the full-purpose annexation conversion date established under Subdivision (5)(A);

(7) agreements existing between districts and governmental bodies and private providers of municipal services in existence on the date a municipality evidences its intention by adopting a resolution to negotiate for a strategic partnership agreement with the district shall be continued and provision made for modifications to such existing agreements; and

(8) such other lawful terms that the parties consider appropriate.

(a) A strategic partnership agreement that provides for the creation of a limited district under Subsection (f)(6) shall include provisions setting forth the following:

(1) the boundaries of the limited district;
(2) the functions of the limited district and the term during which the limited district shall exist after full-purpose annexation, which term may be renewed successively by the governing body of the municipality, provided that no such original or renewed term shall exceed 10 years;
(3) the name by which the limited district shall be known; and
(4) the procedure by which the limited district may be dissolved prior to the expiration of any term established under Subdivision (2).

(h) On the full-purpose annexation conversion date set forth in the strategic partnership agreement pursuant to Subsection (f)(5)(A), the land included within the boundaries of the district shall be deemed to be within the full-purpose boundary limits of the municipality without the need for further action by the governing body of the municipality. The full-purpose annexation conversion date established by a strategic partnership agreement may be altered only by mutual agreement of the district and the municipality. However, nothing herein shall prevent the municipality from terminating the agreement and instituting proceedings to annex the district, on request by the governing body of the district, on any date prior to the full-purpose annexation conversion date established by the strategic partnership agreement. Land annexed for limited or full purposes under this section shall not be included in calculations prescribed by Section 43.055(a).

(i) A district that is negotiating for or that has adopted a strategic partnership agreement shall not incur additional debt, liabilities, or obligations, to construct additional utility facilities, or sell or otherwise transfer property without prior approval of the municipality, which approval shall not be unreasonably withheld or delayed. An action taken in violation of this subsection is void.

(k) Except as limited by this section or the terms of a strategic partnership agreement, a district that has been annexed for limited purposes by a municipality and a limited district shall have and may exercise all functions, powers, and authority otherwise vested in a district.

(k) A municipality that has annexed a district for limited purposes under this section may impose a retail sales tax within the boundaries of the district.

(l) An agreement or a decision made under this section and an action taken under the agreement by the parties to the agreement are not subject
to approval or an appeal brought under the Water Code unless it is an appeal of a utility rate charged by a municipality to customers outside the corporate boundaries of the municipality.

(m) A municipality that may annex a district for limited purposes to implement a strategic partnership agreement under this section shall not annex for full purposes any territory within a district created pursuant to a consent agreement with that municipality executed before August 27, 1979. The prohibition on annexation established by this subsection shall expire on September 1, 1997, or on the date on or before which the municipality and any district may have separately agreed that annexation would not take place whichever is later.

Explanation: This change is necessary to clarify the authority of a municipality and certain municipal utility districts or water control and improvement districts to enter into a strategic partnership agreement.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text in the form of Article 1010a, Revised Statutes, to read as follows:

SECTION 3. Chapter 4, Title 28, Revised Statutes, is amended by adding Article 1010a to read as follows:

Art. 1010a. DEVELOPMENT REGULATION

Sec. 1. This article applies only to a home-rule municipality that:
(1) has a charter provision allowing for limited-purpose annexation; and
(2) has annexed territory for a limited purpose.

Sec. 2. In this article:
(1) "Affected area" means an area that is:
(A) within a municipality or a municipality's extraterritorial jurisdiction;
(B) within a county other than the county in which a majority of the territory of the municipality is located;
(C) within the boundaries of one or more school districts other than the school district in which a majority of the territory of the municipality is located; and
(D) within the area of or within 1,500 feet of the boundary of an assessment road district in which there are two state highways.

(2) "Assessment road district" means a road district that has issued refunding bonds and that has imposed assessments on each parcel of land under Section 4.438A, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes).

(3) "State highway" means a highway that is part of the state highway system under Section 2, Chapter 186, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 6674b, Vernon's Texas Civil Statutes).

Sec. 3. (a) A municipality may not deny, limit, delay, or condition the use or development of land, any part of which is within an affected area, because of:
(1) traffic or traffic operations that would result from the proposed use or development of the land; or
(2) the effect that the proposed use or development of the land would have on traffic or traffic operations.

(b) In this section, an action to deny, limit, delay, or condition the use or development of land includes a decision or action by the governing body of the municipality or a commission, board, department, agency, office, or employee of the municipality related to zoning, subdivision, site planning, the construction or building permit process, or any other municipal process, approval, or permit.

(c) This article does not prevent a municipality from exercising its authority to require the dedication of right-of-way.

Sec. 4. (a) A provision in any covenant or agreement relating to land in an affected area made before, on, or after the effective date of this article that would have the effect of denying, limiting, delaying, or conditioning the use or development of the land because of its effect on traffic or traffic operations may not be enforced by a municipality.

(b) This article controls over any other law relating to municipal regulation of land use or development based on traffic.

Explanation: This change is necessary to clarify the authority of certain municipalities to regulate the development or use of land within certain affected areas.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 43.203(c)(1), Local Government Code, to read as follows:

(1) the district's status is automatically altered from full-purpose annexation to limited-purpose annexation for a period of not less than 10 years, beginning January 1 of the year following the date of the submission of a petition unless the voters of the district have approved the dissolution of the district through an election authorized by this section; and

Explanation: This change is necessary to clarify the procedure for altering annexation status.

(4) Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 43.203(g), Local Government Code, to read as follows:

(g) This section does not allow a change in annexation status for land or facilities in a district to which the municipality granted a property tax abatement before September 1, 1995.

Explanation: This change is necessary to clarify the types of land or facilities that may have a change in annexation status.

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

CONFERENCE COMMITTEE ON HOUSE BILL 1826

Senator Brown 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. 1826 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. 1826 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 Brown, Chair; Bivins, Ratliff, Truan, and Haywood.

CONFERENCE COMMITTEE ON HOUSE BILL 3021

Senator Cain 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. 3021 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. 3021 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 Cain, Chair; Rosson, Barrientos, Armbrister, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 1483

Senator Cain 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. 1483 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. 1483 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 Cain, Chair; Sibley, Armbrister, Leedom, and Brown.

SENATE RESOLUTION 1277

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 12.03, Rules of the Senate, 74th Legislature, Regular Session, 1995, is suspended, as provided by Rule 12.08, to the extent described in this resolution, to enable the conference committee appointed to resolve the differences on H.B. 2890, relating to the management of the Edwards Aquifer, to consider and take action on the following specific matters:
(1) Senate Rule 12.03(4) is suspended to permit the committee to amend Section 1.10(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

(f) The advisory committee by resolution may request the board to reconsider any board action that the committee determines is prejudicial to downstream water interests. If the board review does not result in a resolution satisfactory to the advisory committee and the action affects downstream water rights or water quality, changes fees or pumping limits, or materially impedes the advisory committee in exercising its duties under this article, the advisory committee by resolution may request the commission to review the action. The commission shall hold a hearing to review the action before the 61st day after the date the commission receives the request and make a written determination of whether the action is prejudicial to downstream water interests or materially impedes the advisory committee. In the determination, the commission shall affirm the board's action or recommend that the board modify or withdraw the action. If the commission recommends that the board modify or withdraw an action and the board fails to modify or withdraw the action as recommended, the advisory committee may bring an action in district court to compel the board to act in conformance with the commission's recommendation (and may make a recommendation to the board). If the board determines that the board's action is contrary to an action of the commission affecting downstream interests, the board shall reverse itself.

Explanation: the amendment is necessary to narrow the scope of committee's right of appeal and to make the results of an appeal more certain.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit the amendment to Section 1.12, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

Explanation: the omission is necessary to provide certainty to the continued existence of the board of directors of the Edwards Aquifer Authority.

(3) Senate Rule 12.03(3) is suspended to permit the committee to amend Section 1.26(4) and to add Sections 1.26(5) and (6), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

(4) provide for exemptions for nondiscretionary use for United States Department of Defense missions:

(5) [(4)] require reductions [reduction] of nondiscretionary use other than exempt use by permitted or contractual users, to the extent further reductions are necessary, provided that the amount of such reductions that would have been required to be made by United States Department of Defense missions except for the exemption in subsection (4) of this section shall be apportioned among and required to be made by the nonexempt permitted or contractual users in Bexar County: and [in the reverse order of the following water use preferences:]

(6) require that the reductions under Subdivision (5) shall be in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;
(B) industrial and crop irrigation;
(C) residential landscape irrigation;
(D) recreational and pleasure; and
(E) other uses that are authorized by law.

Explanation: the amendment is necessary to clarify the Edwards Aquifer's Authority to order water use reductions for certain federal projects.

(4) Senate Rule 12.03(4) is suspended to permit the committee to amend Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding "or other underground water district".

Explanation: the conference committee agrees to prevent the Edwards Underground Water District from being abolished and, consequently, the amendment clarifies the district's role under the jurisdiction of the Edwards Aquifer Authority.

(5) Senate Rules 12.03(2) and (4) are suspended to permit the committee to omit the language amending Section 1.41(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, and to substitute language repealing Section 1.41 of that chapter, to read as follows:

SECTION 12. (a) Section 1.41, Chapter 626, Acts of the 73rd Legislature, 1993, is repealed.
(b) Chapter 99, Acts of the 56th Legislature, Regular Session, 1959 (Article 8280-219, Vernon's Texas Civil Statutes), is not repealed by operation of Section 1.41, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, and remains in effect as if that section had not been enacted.


(6) Senate Rule 12.03(4) is suspended to permit the committee to add Section 1.411, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

Sec. 1.411. INITIAL FUNDING OF AUTHORITY. In order to fund the initial operations of the authority, the board of directors of the Edwards Underground Water District shall transfer to the authority $2.5 million from the district's funds before the 31st day after the date the temporary board of directors of the authority is authorized to act for the authority.

Explanation: the amendment is necessary to provide funding for the new Edwards Aquifer Authority because the repeal of Section 1.41, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, removes the funding mechanism originally planned for the authority.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add Section 1.425, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

Sec. 1.425. AUTHORITY OVERSIGHT OF AND COLLABORATION WITH EDWARDS UNDERGROUND WATER DISTRICT. (a) The relationship between the temporary board of directors created under Section 1.092 of this Article, the authority and the Edwards Underground Water District is governed as provided by this section.
(b) The Edwards Underground Water District shall obtain the approval of the board of the authority before the district:
(1) participates in litigation challenging this Act, the authority, or an action of the authority;
(2) incurs new debt;
(3) disposes of or acquires real estate;
(4) makes an expenditure or incurs an obligation greater than $50,000, with the exception of employment contracts and existing obligations; or
(5) enters into a contract the term of which extends beyond the date the district is scheduled to expire under Section 2A, Chapter 99, Acts of the 56th Legislature, Regular Session, 1959 (Article 8280-219, Vernon’s Texas Civil Statutes).

(c) This section does not prohibit the Edwards Underground Water District from continuing to conduct district operations at the level the operations are conducted on the effective date of this section or from expanding the district’s operations as is reasonably necessary and consistent with good business practices.

(d) The Edwards Underground Water District, at no expense to the authority or to the South Central Texas Water Advisory Committee, shall cooperate with and assist the authority and advisory committee in carrying out both of the entities’ responsibilities under this article until each entity has the staff necessary to operate independently. To the extent it does not conflict with the normal operations of the district, the district shall provide the authority and advisory committee, at no expense to the authority or advisory committee, office space, meeting space, and equipment until each entity acquires office space, meeting space, and equipment.

Explanation: The amendment is necessary to clarify the relationship between the two entities because the authority was originally planned to operate without the district in place.

(8) Senate Rule 12.03(4) is suspended to permit the committee to amend Chapter 99, Acts of the 56th Legislature, Regular Session, 1959 (Article 8280-219, Vernon’s Texas Civil Statutes), by adding Section 2A to read as follows:

Sec. 2A. SUNSET REVIEW. (a) The District is subject to review under Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the District is abolished and this Act expires on September 1, 1997.

(b) Notwithstanding Subsection (a) of this section, if Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, takes effect during the period for Sunset Advisory Commission review of the District as prescribed by Subsection (a) of this section:

(1) the period for review is the first period for review under Chapter 325, Government Code (Texas Sunset Act), that follows the date on which Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, takes effect; and

(2) unless continued in effect as provided by Chapter 325, Government Code (Texas Sunset Act), the District is abolished and this Act expires on September 1 of the odd-numbered year of the review cycle.

Explanation: The amendment is necessary to provide for orderly and reasoned transition between management of the Edwards Aquifer by the Edwards Underground Water District and the Edwards Aquifer Authority.
The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1291

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 12.03, Rules of the Senate, 74th Legislature, is suspended, as provided by Senate Rule 12.08, to the extent described in this resolution, to enable the conference committee appointed to adjust the differences between the house and senate versions of H.B. 3189, relating to the board of directors of the Edwards Aquifer Authority and the management of the Edwards Aquifer, to successfully conclude the committee's deliberations, by authorizing the conferees to consider and take action on the following specific matter:

Senate Rule 12.03(4) is suspended to permit the committee to add new Subsection (d) to amended Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

(d) Sections 41.003 and 41.008, Election Code, do not apply to an election held under this article.

Explanation: The addition is necessary to allow board elections to be held on the uniform election date in November in even-numbered years.

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

CONCLUSION OF MORNING CALL

The President at 12:11 p.m. announced the conclusion of morning call.

(Senator Armbrister in Chair)

HOUSE BILL 2247 ON SECOND READING

Senator Sims asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2247, Relating to the transfer of the University of Central Texas to The Texas A&M University System.

There was objection.

Senator Sims then moved to suspend the regular order of business and take up H.B. 2247 for consideration at this time.

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


Nay:s: Leedom, Luna, Truan.

Absent: Ratliff.

The bill was read second time.
Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 2247 by adding a new section appropriately numbered to read as follows:

SECTION _____. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.174 to read as follows:

Sec. 55.174. TARLETON STATE UNIVERSITY. (a) In addition to the authority granted by Sections 55.13, 55.14, 55.17, 55.171, 55.1711, 55.1712, 55.1713, and 55.19, the board of regents of The Texas A&M University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for Tarleton State University to be financed by the issuance of bonds in accordance with this subchapter and in accordance with a systemwide revenue financing program adopted by the board in aggregate principal amounts not to exceed $23 million.

(b) The board may pledge irrevocably to the payment of those bonds all or any part of the revenue funds of an institution, branch, or entity of The Texas A&M University System, including student tuition charges required or authorized by law to be imposed on students enrolled at an institution, branch, or entity of The Texas A&M University System. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The Texas A&M University System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its constitutional and statutory duties and purposes.

The amendment was read and was adopted by the following vote:

Yeas: Armbrister, Bivins, Cain, Gallegos, Galloway, Harris, Haywood, Leedom, Lucio, Luna, Madia, Moncrief, Nelson, Shapiro, Sibley, Truan, Whitmire, Zaffirini.

Nays: Barrientos, Brown, Ellis, Henderson, Montford, Nixon, Patterson, Rosson, Sims, Turner, Wentworth, West.

Absent: Ratliff.

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 2247 as follows:

(1) Between the enacting clause and Section 1 of the bill, insert the following:

ARTICLE 1. TRANSFER OF GOVERNANCE OF THE UNIVERSITY OF CENTRAL TEXAS

(2) Renumber Sections 1-8 of the bill as Sections 1.01-1.08.
(3) Strike Section 9 of the bill and substitute the following:

ARTICLE 2. ESTABLISHMENT OF TEXAS A&M UNIVERSITY—DALLAS

SECTION 2.01. AMENDMENT. Chapter 87, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. TEXAS A&M UNIVERSITY—DALLAS

Sec. 87.701. TEXAS A&M UNIVERSITY—DALLAS. (a) Texas A&M University—Dallas is a coeducational institution of higher education located south of the Trinity River in Dallas County. The institution is a component institution of The Texas A&M University System and is under the management and control of the board of regents of The Texas A&M University System.

(b) The board has the same powers and duties concerning Texas A&M University—Dallas as are conferred on the board by law concerning Texas A&M University.

(c) The institution may accept undergraduate and graduate-level students.

Sec. 87.702. POWERS OF BOARD. (a) The board may:

(1) with the approval of the Texas Higher Education Coordinating Board, prescribe courses leading to degrees customarily offered in leading American educational institutions;

(2) award the degrees described by Subdivision (1);

(3) enter into an affiliation or coordination agreement with an entity if reasonably necessary or desirable for the operation of a first-class educational institution;

(4) make joint appointments in Texas A&M University—Dallas and another institution within The Texas A&M University System; and

(5) adopt rules for the operation, control, and management of the institution as necessary for the operation of a first-class educational institution, including rules governing the number of students that may be admitted to any program at the institution.

(b) The salary of a person who receives a joint appointment under Subsection (a)(4) must be apportioned among the institutions to which the individual is appointed on the basis of the services rendered.

(c) A new department, school, or degree program may not be instituted without the prior approval of the Texas Higher Education Coordinating Board.

SECTION 2.02. ESTABLISHMENT OF INSTITUTION. Not later than the beginning of the fall semester of 1996, the board of regents of The Texas A&M University System shall take the necessary steps to establish Texas A&M University—Dallas and begin admitting students to the institution.

ARTICLE 3. EMERGENCY

SECTION 3.01. 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 amendment was read.

On motion of Senator West and by unanimous consent, Floor Amendment No. 2 was withdrawn.

The bill as amended was passed to third reading by the following vote:
Yeas 27, Nays 3.


Nays: Leedom, Luna, Truan.

Absent: Ratliff.

HOUSE BILL 2247 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2247 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.


Nays: Leedom, Luna, Truan.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

(Senator Truan in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 2256

Senator Madla 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. 2256 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. 2256 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 Madla, Chair; Moncrief, Ellis, Lucio, and Zaffirini.
CONFERENCE COMMITTEE ON HOUSE BILL 1718

Senator Wentworth 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. 1718 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. 1718 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 Wentworth, Chair; Armbrister, Cain, Leedom, and Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 2758

Senator Ellis 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. 2758 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. 2758 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 Ellis, Chair; Wentworth, Rosson, Gallegos, and Galloway.

HOUSE CONCURRENT RESOLUTION 234

The Presiding Officer laid before the Senate the following resolution:

H.C.R. 234, Instructing the House enrolling clerk to make corrections in H.B. 994.

WENTWORTH

The resolution was read.

On motion of Senator Wentworth and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

HOUSE BILL 2508 ON SECOND READING

On motion of Senator Armbrister 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. 2508, Relating to the authority of a governmental body to hold an open or closed meeting by telephone conference call.
The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2508 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2508** 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.

(Professor in Chair)

**HOUSE BILL 2065 ON SECOND READING**

On motion of Senator Lucio 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. 2065**, Relating to enterprise zones.

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

**HOUSE BILL 2065 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2065** 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 a viva voce vote.

**HOUSE BILL 2462 ON SECOND READING**

On motion of Senator Montford 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. 2462**, Relating to the allocation of certain funds to certain institutions of higher education.

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

**HOUSE BILL 2462 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2462** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.
SENATE BILL 42 WITH HOUSE AMENDMENT

Senator Shapiro called S.B. 42 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

Amend S.B. 42 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to access to criminal history record information by certain organizations providing volunteer services.

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

SECTION 1. Subsection (e), Section 411.087, Government Code, is repealed.

SECTION 2. Section 411.126, Government Code, is amended to read as follows:

Sec. 411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTERS [Center of Dallas County].

(a) In this section:

(1) "Volunteer center" means a nonprofit, tax-exempt organization:

(A) whose primary purpose is to recruit and refer individual volunteers for other nonprofit groups in that area; and

(B) that is certified as a bona fide volunteer center by the department.

(C) that is operating on the effective date of this Act as "Volunteer Center of Dallas County."

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or

(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated.

(3) "Employee" or "employee applicant" means a person who will perform one or more of the following services or functions for remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or
(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated;
(D) coordination or referral of volunteers; or
(E) executive administrative responsibilities.

(4) "Client agency" means a nonprofit agency served by a volunteer center.

(b) A volunteer center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:
(1) an employee, an employee applicant, a volunteer, or a volunteer applicant of the volunteer center; or
(2) an employee, an employee applicant, a volunteer, or a volunteer applicant of a client agency.

(c) A volunteer center is entitled to obtain from the department only criminal history record information that relates to a conviction.

(d) The department may establish rules governing the administration of this section and charge volunteer centers a fee to cover the department's direct costs of administering this program.

(e) A volunteer center may disseminate criminal history record information to a client agency, if the client agency has been approved by the department.

(f) A volunteer center or client agency may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

(g) Except in the case of gross negligence or intentional misconduct, a volunteer center is not liable for damages arising from:
(1) the release or use of information obtained under this section;
(2) the failure to release or use information obtained under this section; or
(3) the failure to obtain information under this section.

SECTION 3. This Act takes effect September 1, 1995.

SECTION 4. (a) The change in law made by this Act applies only to a cause of action that arises on or after the effective date of this Act.

(b) A cause of action that arises before the effective date of this Act is governed by the law in effect at the time the cause of action arose, and that law is continued in effect for that purpose.

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 amendment was read.

On motion of Senator Shapiro and by unanimous consent, the Senate concurred in the House amendment to S.B. 42 by a viva voce vote.

SENATE BILL 48 WITH HOUSE AMENDMENT

Senator Shapiro called S.B. 48 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

Amend S.B. 48 as follows:

(1) In SECTION 1 of the bill, in proposed Section 8(f)(2), Article 42.18, Code of Criminal Procedure (Senate engrossment, page 1, line 21 through page 2, line 1), strike "to provide a written statement and to appear in person before the board members to present a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim." and substitute the following: "to provide a written statement. The parole panel also shall allow one person to appear in person before the board members to present a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim. The person may be the victim of the prisoner's crime, or if the victim has a legal guardian or is deceased, the legal guardian of the victim or close relative of the deceased victim. If more than one person is otherwise entitled under this subdivision to appear in person before the board, only the person chosen by all persons entitled to appear as their sole representative may appear before the board."

(2) In SECTION 2 of the bill, in proposed Article 56.08(a)(8), Code of Criminal Procedure (Senate engrossment, page 3, line 21), between "Paroles" and the period, insert "as provided by Section 8(f)(2), Article 42.18".

The amendment was read.

On motion of Senator Shapiro and by unanimous consent, the Senate concurred in the House amendment to S.B. 48 by a viva voce vote.

SENATE BILL 80 WITH HOUSE AMENDMENTS

Senator Shapiro called S.B. 80 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

Amend S.B. 80, on page 3, line 7, between "characteristics" and ""," by inserting the following: "unless determined by the agency head to be inconsistent with the officer's assigned duties".
Floor Amendment No. 1 on Third Reading

Amend S.B. 80 on third reading as follows:

1. Strike SECTION 3 of the bill (House committee report, page 2, lines 15-25, and page 3, lines 1-7) and substitute a new SECTION 3 of the bill to read as follows:

   SECTION 3. Subsections (b) and (c), Section 415.034, Government Code, are amended to read as follows:

   (b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program every 24 months. The course may not exceed 40 hours. Not less than 20 hours of the instruction must be on topics selected by the agency.

   (2) The course provided under Subsection (b) must:

   (1) be approved by the commission; [and]

   (2) include education and training in:

   (A) civil rights, racial sensitivity, and cultural diversity; and

   (B) unless determined by the agency head to be inconsistent with the officer's assigned duties:

   (i) the recognition of cases that involve [the following:

   [☞] child abuse, [;]

   [☞☞] child neglect, [;]

   [☞☞☞] family violence, [;] and

   [☞☞☞☞] sexual assault; and

   (ii) issues concerning sex offender characteristics; and

   (3) include other education and training only if determined by the agency head to be consistent with the officer's assigned duties.

   (c) The course provided under Subsection (b) may not exceed 40 hours.

2. Strike SECTION 5(b) of the bill and substitute a new SECTION 5(b) of the bill to read as follows:

   (b) For persons who are officers on September 1, 1995, the first set of courses required under Section 415.034(c)(2)(B)(ii), Government Code, as added by this Act, must be completed before September 1, 1997.

The amendments were read.

Senator Shapiro moved to concur in the House amendments to S.B. 80.

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

HOUSE BILL 1935 ON SECOND READING

On motion of Senator Nixon 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. 1935, Relating to single certification of an area served by a municipality and certain retail public utilities.
The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1935 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1935 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 a viva voce vote.

**HOUSE BILL 2031 ON SECOND READING**

On motion of Senator West 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. 2031, Relating to a Buffalo Soldier Heritage pilot program for at-risk youth.

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

**HOUSE BILL 2031 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2031 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 a viva voce vote.

(Senator Montford in Chair)

**MOTION TO PLACE HOUSE BILL 1650 ON SECOND READING**

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1650, Relating to the qualifications of sheriffs.

There was objection.

Senator West then moved to suspend the regular order of business and take up H.B. 1650 for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 10. (Not receiving two-thirds vote of Members present)

Yea: Armbrister, Bivins, Cain, Ellis, Gallegos, Lucio, Luna, Madla, Moncrief, Montford, Sibley, Truan, Turner, Wentworth, West, Zaffirini.


Absent: Barrientos, Patterson, Ratliff, Shapiro, Sims.
SATURDAY, MAY 27, 1995

RECESS

On motion of Senator Truan, the Senate at 1:15 p.m. recessed until 2:15 p.m. today.

AFTER RECESS

The Senate met at 2:15 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1995

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

The House has adopted the Conference Committee Report on S.B. 1 by a record vote of 116 Ayes, 29 Nays, 1 Present-not voting.

The House refused to concur in Senate amendments to H.B. 3164 and requested the appointment of a conference committee to consider the difference between the two Houses. The House conferees are: Representatives Seidlits, Chair; Danburg, S. Turner, Hochberg, and Hilbert.

Respectfully,
Cynthia Gerhardt, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 327 ADOPTED

Senator Harris called from the President’s table the Conference Committee Report on H.B. 327. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

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

(Senator Truan in Chair)

MOTION TO PLACE HOUSE BILL 2460 ON SECOND READING

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2460, Relating to the possession, purchase, sale, distribution, and receipt of cigarettes and tobacco products; providing penalties.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up H.B. 2460 for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 12. (Not receiving two-thirds vote of Members present)
Yeas: Armbrister, Barrientos, Bivins, Brown, Gallegos, Galloway, Harris, Lucio, Nelson, Patterson, Ratliff, Rosson, Sibley, Sims, West, Whitmire.

Nays: Ellis, Haywood, Leedom, Luna, Madla, Moncrief, Montford, Nixon, Shapiro, Truan, Wentworth, Zaffirini.

Absent: Cain, Henderson, Turner.

CONFERENCE COMMITTEE ON HOUSE BILL 2843

Senator Brown 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. 2843 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. 2843 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 Brown, Chair; Ratliff, Sims, Bivins, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 1433

Senator Brown 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. 1433 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. 1433 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 Brown, Chair; Montford, Whitmire, Shapiro, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 546

Senator Harris 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. 546 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. 546 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 Harris, Chair; Armbrister, Lucio, Moncrief, and Madla.

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 984 ADOPTED**

Senator West called from the President's table the Conference Committee Report on H.B. 984. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

On motion of Senator West, the Conference Committee Report was adopted by a viva voce vote.

**STATEMENT OF LEGISLATIVE INTENT**

Senator West submitted the following statement of legislative intent:

For the purposes of establishing legislative intent concerning the adoption of Conference Committee Report on H.B. 984.

There is a legislative finding that conditions surrounding certain classes of alcoholic beverage permits and licenses imperil the health, safety, and welfare of the public.

These findings were developed in exhaustive testimony before the House Committee on Licensing and Administrative Procedures. The same said findings included acts of prostitution, assault, robbery, public lewdness and many other violations of the penal code and alcoholic beverage code of the State of Texas.

For the reasons listed above, the Texas Legislature deems this legislation imperative to correct the endangerment of the public's health, safety, and welfare.

**WEST**

**HOUSE BILL 2389 ON SECOND READING**

On motion of Senator Whitmire 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. 2389**, Relating to the lawful operation of a motor vehicle by certain chemically dependent persons and persons who are adjudged to be mentally incompetent.

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

**HOUSE BILL 2389 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2389 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 2952 ON SECOND READING

On motion of Senator Cain 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. 2952, Relating to the procedure for service of process, notice, or demand on the commissioner of insurance.

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

HOUSE BILL 2952 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2952 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 a viva voce vote.

HOUSE BILL 2152 ON SECOND READING

On motion of Senator Gallegos 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. 2152, Relating to restrictive covenants in certain residential real estate subdivisions.

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

HOUSE BILL 2152 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2152 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 a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 982

Senator Shapiro 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. 982 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. 982 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 Shapiro, Chair; Sibley, Harris, Nixon, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 52**

Senator Shapiro 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. 52 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. 52 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 Shapiro, Chair; Haywood, West, Armbrister, and Ratliff.

**HOUSE BILL 2856 ON SECOND READING**

On motion of Senator Ellis 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. 2856, Relating to creation of the Texas Food Security Council.

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

*(President in Chair)*

**HOUSE BILL 2856 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2856 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 2268 ON SECOND READING**

On motion of Senator Whitmire 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. 2268, Relating to the adoption of the Texas Uniform Transfers to Minors Act.

The bill was read second time and was passed to third reading by a viva voce vote.
HOUSE BILL 2268 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2268 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 a viva voce vote.

SENATE RESOLUTION 1294

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on H.B. 982 to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 6. If H.B. 3050 is enacted by the 74th Legislature at its regular session and becomes law, in addition to other amounts appropriated for the fiscal biennium ending August 31, 1997, all receipts deposited in the Children's Trust Fund of Texas Council Operating Fund No. 541 in the biennium ending August 31, 1997, estimated to be $1,800,000 in the fiscal year ending August 31, 1996, and $2,300,000 in the fiscal year ending August 31, 1997, are appropriated to the Children's Trust Fund of Texas Council for the purpose of implementing this Act. The council is limited to a total number of full-time-equivalent positions not to exceed seven in the fiscal year ending August 31, 1996, and seven in the fiscal year ending August 31, 1997.

Explanation: This change is necessary to provide a specific appropriation for implementation of H.B. 982.

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

HOUSE BILL 114 ON SECOND READING

On motion of Senator Ratliff 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. 114, Relating to the testing and remedial education of certain students enrolling in public institutions of higher education.

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

HOUSE BILL 114 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 114 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 1233 ON SECOND READING**

On motion of Senator Sibley 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. 1233**, Relating to withholding for federal income tax purposes from unemployment compensation benefits.

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

**HOUSE BILL 1233 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1233** be placed on its third reading and final passage.

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

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

**HOUSE JOINT RESOLUTION 35 ON SECOND READING**

Senator Patterson moved to suspend the regular order of business to take up for consideration at this time:

**H.J.R. 35**, Proposing a constitutional amendment authorizing the governing body of a political subdivision to exempt from ad valorem taxation boats and other equipment used in the commercial taking or production of fish, shrimp, shellfish, and other marine life.

The motion prevailed by the following vote: Yeas 23, Nays 2.

Yeas: Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, West, Whitmire, Zaffirini.

Nays: Leedom, Luna.


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

**RECORD OF VOTES**

Senators Leedom and Luna asked to be recorded as voting "Nay" on the passage of the resolution to third reading.

**HOUSE JOINT RESOLUTION 35 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 35** be placed on its third reading and final passage.
The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Lucio, Madia, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Leedom, Luna.

Absent: Armbrister, Barrientos, Henderson, Turner.

The resolution was read third time and was passed by the following vote: Yeas 25, Nays 2. (Same as previous roll call)

**HOUSE BILL 399 ON SECOND READING**

On motion of Senator Patterson 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. 399**, Relating to the authorization of an exemption from ad valorem taxation of boats and other equipment used in the commercial taking of fish, shrimp, shellfish, and other marine life.

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

**HOUSE BILL 399 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 399 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 a viva voce vote.

**HOUSE BILL 3181 ON SECOND READING**

On motion of Senator Lucio 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. 3181**, Relating to the private practice of law by a judge of a statutory county court of Hidalgo County.

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

**HOUSE BILL 3181 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 3181** 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 a viva voce vote.
SENATE RESOLUTION 1292

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on S.B. 1128 to consider and take action on the following specific matters:

1. Senate Rule 12.03(4) is suspended to permit the committee to add a new Section 31 to the bill to read as follows:

SECTION 31. Sections 16.260(b), (c), and (d), Education Code, are amended to read as follows:

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 80 percent of the yearly entitlement of the district shall be paid in eight equal installments to be made on or before the 25th day of October, November, December, January, February, March, May, June, and July; and

(3) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of February.

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) nine percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:
(1) 45 \% \text{ of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;}
(2) 35 \% \text{ of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;}
(3) 20 \% \text{ of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.}

Explanation: This addition is necessary to enable the state to accelerate payments from the foundation school fund.

2. Senate Rule 12.03(4) is suspended to permit the committee to add Subsection (c) to Section 32 of the bill, renumbered as Section 33, to read as follows:

(c) The change in law made by this Act in Section 16.260, Education Code, prevails over any conflicting Act of the 74th Legislature, Regular Session, 1995, including S.B. 1, regardless of the relative dates of enactment.

Explanation: This addition is necessary for the preceding addition, relating to distribution of the foundation school fund, to become effective.

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

**HOUSE BILL 2036 ON SECOND READING**

On motion of Senator West 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. 2036, Relating to a payroll deduction by a county employee for a charitable purpose.

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

**HOUSE BILL 2036 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2036 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 a viva voce vote.

**HOUSE BILL 2398 ON SECOND READING**

On motion of Senator Henderson 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. 2398, Relating to duties of the district clerk.
The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2398 ON THIRD READING**

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2398 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 a viva voce vote.

**HOUSE BILL 2477 ON SECOND READING**

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

H.B. 2477, Relating to authorizing the School Land Board to allow owners of the soil to waive agency rights and to lease oil, gas, and other minerals in, on, and under mineral classified lands.

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

**HOUSE BILL 2477 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2477 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 a viva voce vote.

**HOUSE BILL 2593 ON SECOND READING**

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

H.B. 2593, Relating to rates for commercial windstorm and hail insurance coverage through the Texas Catastrophe Property Insurance Association.

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

**HOUSE BILL 2593 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2593 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 a viva voce vote.
(Senator Rosson in Chair)

**HOUSE BILL 2940 ON SECOND READING**

On motion of Senator Brown 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. 2940**, Relating to the appraisal and ad valorem taxation of certain types of personal property; providing penalties.

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

**HOUSE BILL 2940 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2940** 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 a viva voce vote.

**HOUSE BILL 3143 ON SECOND READING**

On motion of Senator Brown 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. 3143**, Relating to the unauthorized use by a motor vehicle of toll roads in certain counties; providing criminal and administrative penalties.

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

**HOUSE BILL 3143 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 3143** be placed on its third reading and final passage.

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

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

**HOUSE BILL 692 ON SECOND READING**

On motion of Senator Brown 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. 692**, Relating to the ability to recover damages for injuries to a convicted criminal arising from the commission of the offense.

The bill was read second time and was passed to third reading by a viva voce vote.
HOUSE BILL 692 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 692 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 ON HOUSE BILL 3164

Senator Armbrister 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. 3164 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. 3164 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 Armbrister, Chair; Henderson, Rosson, Lucio, and Barrientos.

HOUSE BILL 895 ON SECOND READING

On motion of Senator Zaffirini 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. 895, Relating to the conveyance of certain state-owned real property in Wilson County.

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

HOUSE BILL 895 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 895 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 2139 ON SECOND READING

On motion of Senator Barrientos 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. 2139, Relating to the authority of the board of the Travis County Water Control and Improvement District No. 14 to exclude certain territory.

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

**HOUSE BILL 2139 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2139 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 2227 ON SECOND READING**

On motion of Senator Barrientos 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. 2227, Relating to the method of sale of charitable raffle tickets.

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

**HOUSE BILL 2227 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2227 be placed on its third reading and final passage.

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

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

**SENATE RESOLUTION 1297**

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on H.B. 1718 to consider and take action on the following matters:

(1) Senate Rule 12.03(2) is suspended to permit the committee to omit text that is not in disagreement in Section 552.103, Government Code. The omitted text reads:

Sec. 552.103. EXCEPTION: LITIGATION OR SETTLEMENT NEGOTIATIONS INVOLVING THE STATE OR A POLITICAL SUBDIVISION. (a) Information is excepted from the requirements of Section 552.021 if the attorney general or the attorney of the political subdivision has determined that the information should be withheld from public inspection, and it is information created:
(1) in anticipation of [relating to] litigation of a civil or criminal nature [or settlement negotiations;] to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; or [and]

(2) for the purpose of settlement negotiations to which the state or a political subdivision is a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is a party [that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection].

(b) A determination by the attorney of the political subdivision that the information should be withheld from public inspection does not relieve the political subdivision of its obligation to seek an attorney general decision under Section 552.301.

(c) For purposes of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.

(e) Information under this section includes the work product of an attorney. Protection for the work product of an attorney does not terminate on the conclusion of the litigation for which it was created.

Explanation: This change is necessary to continue in effect the current law regarding information related to litigation.

(2) Senate Rules 12.03(1) and (2) are suspended to permit the committee to change and omit text that is not in disagreement so that Section 552.321, Government Code, may be amended to read as follows:

Sec. 552.321. SUIT FOR WRIT OF MANDAMUS. A requester [person requesting information] or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is [is] public information [record].

Explanation: This change is necessary to continue in effect the current law regarding suits to make information available through a writ of mandamus and omit unnecessary proposed procedures.

(3) Senate Rule 12.03(3) is suspended to permit the committee to add text not in disagreement to Section 552.262, Government Code. The added text reads as follows:

(e) The rules of the General Services Commission do not apply to a state governmental body that is not a state agency for purposes of Subtitle D, Title 10.

Explanation: This change is necessary to allow legislative entities to establish charges for the production of copies pursuant to open records requests.
(4) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill by including an amendment to Section 552.008, Government Code. The added text reads as follows:

Sec. 552.008. INFORMATION FOR LEGISLATIVE PURPOSES. (a) This chapter does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under this chapter for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(c) This section does not affect:

(1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

Explanation: This change is necessary to allow legislative entities to receive confidential information from other governmental bodies for legislative purposes while continuing to protect the confidentiality of the information received.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.
CONFERENCE COMMITTEE REPORT ON
SENATE BILL 261 ADOPTED

Senator Leedom called from the President's table the Conference Committee Report on S.B. 261. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

On motion of Senator Leedom, the Conference Committee Report was adopted by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON
SENATE BILL 646 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on S.B. 646. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

On motion of Senator Barrientos, the Conference Committee Report was adopted by a viva voce vote.

SENATE BILL 103 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 103 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.

Floor Amendment No. 1

Amend S.B. 103 in SECTION 1 of the bill by striking Sections 161.004(b)(2) and (3), Human Resources Code, as added by the bill (committee printing page 3, lines 1-5) and substituting the following:

(2) two members of private associations of persons who advocate on the behalf of or in the interest of the elderly or person with mental illness or mental retardation; and

(3) two parents of incapacitated persons other than minors.

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to S.B. 103 by a viva voce vote.

SENATE BILL 169 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 169 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

Amend S.B. 169 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to the interstate placement of and assistance to children; creating offenses and providing penalties.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Subchapter B, Chapter 162, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

SUBCHAPTER B. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

SECTION 2. Section 162.101, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 162.101. DEFINITIONS.

In this subchapter:

(1) "Appropriate public authorities," with reference to this state, means the executive director.

(2) "Appropriate authority in the receiving state," with reference to this state, means the executive director.

(3) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(4) "Child-care facility" means a facility that provides care, training, education, cust.ody, treatment, or supervision for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility, whether or not the facility is operated for profit and whether or not the facility makes a charge for the service offered by it.

(5) "Compact" means the Interstate Compact on the Placement of Children.

(6) "Department" means the Department of Protective and Regulatory Services.

(7) "Executive head," with reference to this state, means the governor.

(8) "Executive director" means the executive director of the Department of Protective and Regulatory Services.

(9) "Placement" means an arrangement for the care of a child in a family free, in a boarding home, in a child-care facility or institution, including an institution caring for the mentally ill, mentally defective, or epileptic, but does not include an institution primarily educational in character or a hospital or other primarily medical facility.

(10) "Sending agency" means a state, a subdivision of a state, an officer or employ of a state or subdivision of a state, a court of a state, or a person, partnership, corporation, association, charitable agency, or other entity, located outside this state, that sends, brings, or causes to be sent or brought a child into this state.

SECTION 3. Section 162.108, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.102, Family Code, and amended to read as follows:

Sec. 162.102. ADOPTION OF COMPACT; TEXT. The Interstate Compact on the Placement of Children is adopted by this state and entered into with all other jurisdictions in form substantially as provided by this subchapter.
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. PURPOSE AND POLICY

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, officer, or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. CONDITIONS FOR PLACEMENT

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:
(1) the name, date, and place of birth of the child;
(2) the identity and address or addresses of the parents or legal guardian;
(3) the name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child;
(4) a full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to Paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children.

ARTICLE V. RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.
(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in Paragraph (a) hereof.

ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. LIMITATIONS

This compact shall not apply to:

(a) the sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state; or
(b) any placement, sending, or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.
ARTICLE X. CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 4. Section 162.109, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.103, Family Code, and is amended to read as follows:

Sec. 162.103. FINANCIAL RESPONSIBILITY FOR CHILD. (a) Financial responsibility for a child placed as provided in the compact is determined, in the first instance, as provided in Article V of the compact. After partial or complete default of performance under the provisions of Article V assigning financial responsibility, the executive director may bring suit under Chapter 154 and may file a complaint with the appropriate prosecuting attorney, claiming a violation of Section 25.05, Penal Code.

(b) After default, if the executive director determines that financial responsibility is unlikely to be assumed by the sending agency or the child's parents, the executive director may cause the child to be returned to the sending agency.

(c) After default, the department shall assume financial responsibility for the child until it is assumed by the child's parents or until the child is safely returned to the sending agency.

SECTION 5. Section 162.110, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.104, Family Code, and amended to read as follows:

Sec. 162.104. APPROVAL OF PLACEMENT [OR DISCHARGE]. The executive director may not approve the placement of a child in this state without the concurrence of the individuals with whom the child is proposed to be placed or the head of the institution with which the child is proposed to be placed.

(b) The executive director may not approve the discharge of a child placed in a public institution in this state without the concurrence of the head of the institution.

SECTION 6. Section 162.111, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.105, Family Code, to read as follows:

Sec. 162.105. PLACEMENT IN ANOTHER STATE. A juvenile court may place a delinquent child in an institution in another state as provided by Article VI of the compact. After placement in another state, the court retains jurisdiction of the child as provided by Article V of the compact.
SECTION 7. Section 162.112, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.106, Family Code, and amended to read as follows:

(a) The governor shall appoint the executive director of the Department of Protective and Regulatory Services as compact administrator.

(b) The executive director shall designate a deputy compact administrator and staff necessary to execute the terms of the compact in this state. [If the executive director is unable to attend a compact meeting, the executive director may designate a department employee to attend the meeting as the executive director’s representative.]

SECTION 8. Section 162.113, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is redesignated as Section 162.107, Family Code, and amended to read as follows:

Sec. 162.107 [162.113]. OFFENSES; PENALTIES. (a) An individual, agency, corporation, or child-care facility that violates a provision of the compact commits an offense. An offense under this subsection is a Class B misdemeanor.

(b) An individual, agency, corporation, child-care facility, or child-care institution in this state that violates Article IV of the compact commits an offense. An offense under this subsection is a Class B misdemeanor. On conviction, the court shall revoke any license to operate as a child-care facility or child-care institution issued by the department to the entity convicted and shall revoke any license or certification of the individual, agency, or corporation necessary to practice in the state. [APPLICATION OF SUNSET ACT. The office of administrator of the Interstate Compact on the Placement of Children is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the office is abolished and this subchapter expires September 1, 1999.]

SECTION 9. Chapter 162, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Sec. 162.201. ADOPTION OF COMPACT TEXT. The Interstate Compact on Adoption and Medical Assistance is adopted by this state and entered into with all other jurisdictions joining in the compact in form substantially as provided under this subchapter.

INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

ARTICLE I. FINDINGS

The legislature finds that:

(a) Finding adoptive families for children for whom state assistance is desirable, under Subchapter D, Chapter 162, and assuring the protection of the interest of the children affected during the entire assistance period require special measures when the adoptive parents move to other states or are residents of another state.
(b) The provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

ARTICLE II. PURPOSES

The purposes of the compact are to:

(a) authorize the Department of Protective and Regulatory Services, with the concurrence of the Health and Human Services Commission, to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department of Protective and Regulatory Services; and

(b) provide procedures for interstate children's adoption assistance payments, including medical payments.

ARTICLE III. DEFINITIONS

In this compact:

(a) "Adoption assistance state" means the state that signs an adoption assistance agreement in a particular case.

(b) "Residence state" means the state in which the child resides by virtue of the residence of the adoptive parents.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or a territory or possession administered by the United States.

ARTICLE IV. COMPACTS AUTHORIZED

The Department of Protective and Regulatory Services, through its executive director, is authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes of this compact. An interstate compact authorized by this article has the force and effect of law.

ARTICLE V. CONTENTS OF COMPACTS

A compact entered into under the authority conferred by this compact shall contain:

(1) a provision making the compact available for joinder by all states;

(2) a provision for withdrawal from the compact on written notice to the parties, with a period of one year between the date of the notice and the effective date of the withdrawal;

(3) a requirement that protections under the compact continue for the duration of the adoption assistance and apply to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they reside and have their principal place of abode;

(4) a requirement that each case of adoption assistance to which the compact applies be covered by a written adoption assistance agreement between the adoptive parents and the state child welfare agency of the state that provides the adoption assistance and that the agreement be
expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

(5) other provisions that are appropriate for the proper administration of the compact.

ARTICLE VI. OPTIONAL CONTENTS OF COMPACTS

A compact entered into under the authority conferred by this compact may contain the following provisions, in addition to those required under Article V of this compact:

(1) provisions establishing procedures and entitlement to medical, developmental, child-care, or other social services for the child in accordance with applicable laws, even if the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs thereof; and

(2) other provisions that are appropriate or incidental to the proper administration of the compact.

ARTICLE VII. MEDICAL ASSISTANCE

(a) A child with special needs who resides in this state and who is the subject of an adoption assistance agreement with another state is entitled to receive a medical assistance identification from this state on the filing in the state medical assistance agency of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with rules of the state medical assistance agency, the adoptive parents, at least annually, shall show that the agreement is still in effect or has been renewed.

(b) The state medical assistance agency shall consider the holder of a medical assistance identification under this article as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on the holder's account in the same manner and under the same conditions and procedures as for other recipients of medical assistance.

(c) The state medical assistance agency shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department of Protective and Regulatory Services for the coverage or benefits if any not provided by the residence state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed for those amounts. Services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents may not be reimbursed. The state medical assistance agency shall adopt rules implementing this subsection. The additional coverage and benefit amounts provided under this subsection are for services for which there is no federal contribution or services that, if federally aided, are not provided by the residence state. The rules shall include procedures for obtaining prior approval for services in cases in which prior approval is required for the assistance.

(d) The submission of a false, misleading, or fraudulent claim for payment or reimbursement for services or benefits under this article or the
making of a false, misleading, or fraudulent statement in connection with the claim is an offense under this subsection if the person submitting the claim or making the statement knows or should know that the claim or statement is false, misleading, or fraudulent. A person who commits an offense under this subsection may be liable for a fine not to exceed $10,000 or imprisonment for not more than two years, or both the fine and the imprisonment. An offense under this subsection that also constitutes an offense under other law may be punished under either this subsection or the other applicable law.

(e) This article applies only to medical assistance for children under adoption assistance agreements with states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance under adoption assistance agreements entered into by this state are eligible to receive the medical assistance in accordance with the laws and procedures that apply to the agreement.

ARTICLE VIII. FEDERAL PARTICIPATION

Consistent with federal law, the Department of Protective and Regulatory Services and the Health and Human Services Commission, in connection with the administration of this compact or a compact authorized by this compact, shall include the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost in any state plan made under the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272), Titles IV-E and XIX of the Social Security Act, and other applicable federal laws. The Department of Protective and Regulatory Services and the Health and Human Services Commission shall apply for and administer all relevant federal aid in accordance with law.

Sec. 162.202. AUTHORITY OF DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. The Department of Protective and Regulatory Services, with the concurrence of the Health and Human Services Commission, may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes of this subchapter. An interstate compact authorized by this article has the force and effect of law.

Sec. 162.203. COMPACT ADMINISTRATION. The executive director of the Department of Protective and Regulatory Services shall serve as the compact administrator. The administrator shall cooperate with all departments, agencies, and officers of this state and its subdivisions in facilitating the proper administration of the compact and any supplemental agreements entered into by this state. The executive director and the commissioner of human services shall designate deputy compact administrators to represent adoption assistance services and medical assistance services provided under Title XIX of the Social Security Act.

Sec. 162.204. SUPPLEMENTARY AGREEMENTS. The compact administrator may enter into supplementary agreements with appropriate
officials of other states under the compact. If a supplementary agreement requires or authorizes the use of any institution or facility of this state or requires or authorizes the provision of a service by this state, the supplementary agreement does not take effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with rendering the service.

Sec. 162.205. PAYMENTS BY STATE. The compact administrator, subject to the approval of the chief state fiscal officer, may make or arrange for payments necessary to discharge financial obligations imposed on this state by the compact or by a supplementary agreement entered into under the compact.

Sec. 162.206. PENALTIES. A person who, under a compact entered into under this subchapter, knowingly obtains or attempts to obtain or aids or abets any person in obtaining, by means of a willfully false statement or representation or by impersonation or other fraudulent device, any assistance on behalf of a child or other person to which the child or other person is not entitled, or assistance in an amount greater than that to which the child or other person is entitled, commits an offense. An offense under this section is a Class B misdemeanor. An offense under this section that also constitutes an offense under other law may be punished under either this section or the other applicable law.

SECTION 10. Sections 162.102-162.107 and 162.114, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, are repealed.

SECTION 11. 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 Moncrief moved to concur in the House amendment to S.B. 169.

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

SENATE BILL 242 WITH HOUSE AMENDMENT

Senator Shapiro called S.B. 242 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.

Floor Amendment No. 1

Amend S.B. 242 by adding a new Section 2 to read as follows and renumbering the other sections of the bill accordingly:

SECTION 2. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.047 to read as follows:
Sec. 61.047. VIOLENCE PREVENTION AND CONFLICT RESOLUTION EDUCATION. The commission shall provide education in violence prevention and conflict resolution that includes discussion of domestic violence and child abuse issues to all children in its custody.

The amendment was read.

Senator Shapiro moved to concur in the House amendment to S.B. 242.

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

(Verified in Chair)

SENATE BILL 281 WITH HOUSE AMENDMENT

Senator Brown called S.B. 281 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

Amend S.B. 281 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to the punishment for the offense of evading arrest or detention and certain civil consequences of using a vehicle to evade arrest or detention.

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

SECTION 1. Section 38.04, Penal Code, is amended by adding Subsection (c) and (d) to read as follows:

(b) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor [felony of the third degree] if the actor uses a vehicle while the actor is in flight and the actor has not been previously convicted under this section;

(2) a state jail felony if the actor uses a vehicle while the actor is in flight and the actor has been previously convicted under this section;

(3) a felony of the third degree if another [peace officer] suffers serious bodily injury [or death from any cause other than an assault or homicide by the actor] as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or

(4) a felony of the second degree if another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight.

(c) In this section, "vehicle" has the meaning assigned by Section 2, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(d) A person who is subject to prosecution under both this section and another law may be prosecuted under either or both this section and the other law.
SECTION 2. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Chapters 761 and 828, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 38.04 or Chapters 29, 30, 31, or 32, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Article 350, Revised Statutes;

(iv) any felony under Chapter 34, Penal Code; or

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; or

(vi) any felony under The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes);

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence.

SECTION 3. Subsection (a), Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by Subsection (g) of this Section, the license of any person shall be automatically suspended upon final conviction of:

(1) an offense under Section 19.05 [19.07], Penal Code, committed as a result of the person's criminally negligent operation of a motor vehicle;

(2) an offense under Section 49.04 or 49.08 [49.05(a)(2)], Penal Code;

(3) an offense under Section 49.07, Penal Code [Article 67011-1, Revised Statutes], if the person used a motor vehicle in the commission of the offense [committed as a result of the introduction of alcohol into the body];

(4) an offense punishable as a felony under the motor vehicle laws of this State;
(5) an offense under Section 38, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes); or
(6) an offense under Section 32 or 32A of this Act; or
(7) an offense under Section 38.04, Penal Code, if the actor used a motor vehicle in the commission of the offense.

SECTION 4. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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.
(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1995.
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.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 281 by a viva voce vote.

MESSAGE FROM THE HOUSE
House Chamber
May 27, 1995

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

The House has adopted the Conference Committee Report on H.B. 984 by a non-record vote.

The House has adopted the Conference Committee Report on H.B. 1593 by a record vote of 140 Ayes, 0 Nays, and 2 Present-not voting.

The House has adopted the Conference Committee Report on H.B. 3003 by a record vote of 128 Ayes, 3 Nays, and 1 Present-not voting.

The House has adopted the Conference Committee Report on S.B. 1190 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 261 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 646 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 1513 by a non-record vote.

The House has adopted the Conference Committee Report on S.J.R. 51 by a record vote of 139 Ayes, 1 Nay, and 3 Present-not voting.
The House has adopted the Conference Committee Report on H.B. 2861 by a non-record vote.

The House has adopted the Conference Committee Report on H.B. 3235 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 1295 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 172 by a non-record vote.

The House has adopted the Conference Committee Report on H.B. 418 by a non-record vote.

The House has adopted the Conference Committee Report on S.B. 550 by a record vote of 141 Ayes, 4 Nays, and 1 Present-not voting.

The House has adopted the Conference Committee Report on H.B. 1204 by a non-record vote.

The House has adopted the Conference Committee Report on H.B. 2726 by a record vote of 143 Ayes, 2 Nays, and 2 Present-not voting.

S.C.R. 5, Requesting and encouraging local counseling services to develop battering intervention and protection programs in response to the studies documenting the success of such programs.

S.C.R. 15, Petitioning the Secretary of Health and Human Services to award to the Texas Council on Family Violence the National Domestic Violence Hotline Grant to set up a national hotline for victims of domestic violence.

S.C.R. 17, Requesting the Texas Department of Criminal Justice to raise the funding priority of all diversion targeted programs.

S.C.R. 18, Requesting the Texas Higher Education Coordinating Board to conduct a review of courses related to violence in our society.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

SENATE BILL 349 WITH HOUSE AMENDMENTS

Senator Brown called S.B. 349 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

Amend S.B. 349, page 3, line 18, by adding after the word "law" the following: ‘municipal court'

Amend S.B. 349, page 4, line 22, by adding after the word "court" and before the period the following: ‘or the governing body of a municipality'
Floor Amendment No. 2

Amend S.B. 349 as follows:

(1) In SECTION 2 of the bill, in the heading of amended Article 102.017, Code of Criminal Procedure (House committee report, page 3, line 14), between "FUND" and the period, insert "MUNICIPAL COURT BUILDING SECURITY FUND".

(2) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, insert the following sentence at the end of Subsection (b) (House committee report, page 3, line 19): "The governing body of a municipality by ordinance may create a municipal court building security fund and may require a defendant convicted in a trial for a misdemeanor offense in a municipal court to pay a $3 security fee as a cost of court."

(3) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the first sentence of redesignated Subsection (d), strike "county treasurer" wherever it appears (House committee report, page 4, line 2 and lines 3-4) and substitute "county or municipal treasurer, as appropriate".

(4) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the first sentence of redesignated Subsection (d), after "fund" and before the period (House committee report, page 4, line 5), insert "or a fund to be known as the municipal court building security fund, as appropriate".

(5) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the second sentence of redesignated Subsection (d), strike "The fund" (House committee report, page 4, line 5) and substitute "A [the] fund designated by this subsection".

(6) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the second sentence of redesignated Subsection (d), strike "district or county court" (House committee report, page 4, line 7) and substitute "district, [or] county, or municipal court, as appropriate".

(7) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, insert the following sentence at the end of redesignated Subsection (e) (House committee report, page 4, line 22): "The municipal court building fund shall be administered by or under the direction of the governing body of the municipality."

Floor Amendment No. 3

Amend S.B. 349 by adding a new appropriately numbered section to read as follows and renumbering the existing sections as appropriate:

SECTION ___. Section 118.0145, Local Government Code, is amended to read as follows:

Sec. 118.0145. NONCERTIFIED PAPERS. (a) The fee for "Noncertified Papers" under Section 118.011 is for issuing a noncertified copy of each page or part of a page of a document. The fee must be paid at the time the order is placed.
(b) A county clerk may waive or reduce the fee provided in Section 118.011 for issuing a noncertified copy of a page or a portion of a page of a document if the document:

(1) involves a matter relating to family law, including a divorce decree; or

(2) is the record of a judgment in a misdemeanor case.

The amendments were read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendments to S.B. 349 by a viva voce vote.

SENATE RESOLUTION 1296

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 12.03, Rules of the Senate, 74th Legislature, Regular Session, 1995, is suspended, as provided by Rule 12.08, to the extent described in this resolution, to enable the conference committee appointed to adjust the differences between the house and senate versions of H.B. 2349, relating to solid waste management and disposal, to successfully conclude the committee’s deliberations, by authorizing the conferences to consider and take action on the following specific matter:

Senate Rule 12.03(1) is suspended to permit the committee to alter Section 361.071, Health and Safety Code, in Section 5 of the bill, by striking "solid waste management facility" and substituting "municipal solid waste management facility other than a facility that engages in combustion" and by striking "solid waste" and substituting "municipal solid waste".

The amendment is necessary to clarify that Section 361.071, Health and Safety Code, is intended to apply only to municipal solid waste management facilities except those that engage in combustion.

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

HOUSE BILL 2656 ON SECOND READING

On motion of Senator Leedom 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. 2656, Relating to authorizing a lien for storing aircraft.

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

HOUSE BILL 2656 ON THIRD READING

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2656 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 a viva voce vote.
SENATE RESOLUTION 1298

Senator Barrientos offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on H.B. 1013 to consider and take action on the following matter:

Senate Rule 12.03(2) is suspended to permit the committee to omit text that is not in disagreement in Section 61.084, Education Code. The omitted text reads as follows:

Sec. 61.084. BOND ISSUANCE BY TEXAS PUBLIC FINANCE AUTHORITY. (a) The Texas Public Finance Authority shall exercise the board’s authority provided by law to issue bonds and refunding bonds. The Texas Public Finance Authority is subject to all rights, duties, and conditions provided by law with respect to issuance of bonds by the board.

(b) For purposes of Sections 50b, 50b-1, 50b-2, and 50b-3, Article III, Texas Constitution, the authority is the successor to the board.

Explanation: This change is necessary to conform the conference committee report to a senate amendment striking the Texas Higher Education Coordinating Board from the bill.

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

SENATE RESOLUTION 1295

Senator Turner offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 12.03, Rules of the Senate, 74th Legislature, is suspended, as provided by Senate Rule 12.08, to the extent described in this Resolution, to enable the conference committee appointed to adjust the differences between the House and Senate versions of S.B. 1542, relating to the regulation of private investigators and private security agencies; creating a criminal penalty, to successfully conclude the committee’s deliberations, by authorizing the conferees to consider and take action on the following specific matter:

(1) Senate Rule 12.03 is suspended to permit the committee to insert a new Section 21 to read as follows:

SECTION 21. If H.B. 713, 74th Legislature, Regular Session, 1995, is enacted and becomes law, the amendments made by that act to Sections 11B, 14, 19, 28, 39A, and 44, Private Investigators and Private Security Agencies Act (Article 4413(29bb), V.T.C.S.) and to Section 46.03, Texas Penal Code, do not take effect and are repealed.

Explanation: This change is necessary to clarify the effect of this Act on other legislation.

The resolution was read and was adopted by the following vote:
Yeas 31, Nays 0.
SENATE RESOLUTION 1299

Senator Henderson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on H.B. 3235 to consider and take action on the following specific matters:

(1) Senate Rule 12.03(3) is suspended to permit the committee to amend Section 24.136, Government Code, to read as follows:

Sec. 24.136. 34TH JUDICIAL DISTRICT ([CULBERSON,] EL PASO COUNTY[; AND HUDSPETH COUNTIES]). (a) The 34th Judicial District is composed of [Culberson,] El Paso County[; and Hudspeth counties].

(b) In El Paso County, the 34th, 41st, 65th, 120th, and 171st district courts have concurrent jurisdiction.

(c) The terms of the 34th District Court begin:

[(1) in Culberson County on the third Monday in October and the first Monday in April;
(2) in El Paso County] on the third Mondays in April and September and the first Mondays in January, July, and November; and
(3) in Hudspeth County on the third Monday in March and the first Monday in September].

(d) A grand jury may not be impaneled in any district court in El Paso County except the 34th District Court unless the judge of another district court in the county calls for a grand jury by special order.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by redefining the boundaries of the 34th Judicial District.

(2) Senate Rule 12.03(3) is suspended to permit the committee to amend Section 24.185, Government Code, to read as follows:

Sec. 24.185. 83RD JUDICIAL DISTRICT ([BREWSTER, JEFF DAVIS,] PECS, [PRESIDIO,] REAGAN, AND UPTON COUNTIES). (a) The 83rd Judicial District is composed of [Brewster, Jeff Davis,] Pecos, Presidio, Reagan, and Upton counties.

(b) The 83rd and 112th district courts have concurrent jurisdiction in Pecos, Reagan, and Upton counties.

(c) The terms of the 83rd District Court begin:

(1) [in Brewster County on the fourth and 11th Mondays after the first Mondays in January and July;
(2) in Jeff Davis County on the second Mondays in January and July;
(3) in Pecos County on the ninth Monday after the first Mondays in January and July;
(4) in Presidio County on the third Monday after the first Mondays in January and July;]

(2) [(5) in Reagan County on the 14th Monday after the first Mondays in January and July; and]
(3) in Upton County on the 12th Monday after the first Mondays in January and July.

(d) In each of the counties of Pecos and Upton, a petition or other pleading filed in the district courts is sufficient if addressed "To The District Court of Pecos County, Texas," or "To The District Court of Upton County, Texas," respectively, without giving the number of the district court in the address.

(e) The secretary of state shall submit the changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, to the U.S. Justice Department for preclearance under Section 5 of the federal Voting Rights Act of 1965 as amended (42 U.S.C. Section 1973 et seq.). The changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, become inoperative if the U.S. Justice Department files a timely objection pursuant to Section 5 of the Voting Rights Act of 1965 as amended.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by redefining the boundaries of the 83rd Judicial District. This change is also necessary to assure compliance with the Voting Rights Act.

(3) Senate Rule 12.03(3) is suspended to permit the committee to amend Section 24.389, Government Code, to read as follows:

Sec. 24.389. 210TH JUDICIAL DISTRICT ([CULBERSON,] EL PASO COUNTY[, AND HUDSPETH COUNTIES]). (a) The 210th Judicial District is composed of [Culberson;] El Paso County[, and Hudspeth counties].

(b) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 210th District Court.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by redefining the boundaries of the 210th Judicial District.

(4) Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Section 24.523(b) to read as follows:

(b) A judge of the 378th Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties.

(5) Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Section 24.525(b) to read as follows:

(b) A judge of the 380th Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties.

(6) Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Section 24.526(b) to read as follows:
A judge of the 381st Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties.

Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Section 24.527(b) to read as follows:

A judge of the 382nd Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties.

Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Sections 24.528(b) and (c) to read as follows:

A judge of the 383rd Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

The secretary of state shall submit the changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, to the U.S. Justice Department for preclearance under Section 5 of the federal Voting Rights Act of 1965 as amended (42 U.S.C. Section 1973 et seq.). The changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, become inoperative if the U.S. Justice Department files a timely objection pursuant to Section 5 of the Voting Rights Act of 1965 as amended.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties and to assure compliance with the federal Voting Rights Act.

Senate Rule 12.03(3) is suspended to permit the committee to amend Subchapter C, Chapter 24, Government Code, by adding Sections 24.529(b) and (c) to read as follows:

A judge of the 384th Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

The secretary of state shall submit the changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, to the U.S. Justice Department for preclearance under Section 5 of the federal Voting Rights Act of 1965 as amended (42 U.S.C. Section 1973 et seq.). The changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, become inoperative if the U.S. Justice Department files a timely objection pursuant to Section 5 of the Voting Rights Act of 1965 as amended.

Explanation: This change is necessary to prohibit assignment of the judge as a visiting judge to certain counties and to assure compliance with the federal Voting Rights Act.
Sec. 24.539. 394TH JUDICIAL DISTRICT (BREWSTER, CULBERSON, HUDSPETH, JEFF DAVIS, AND PRESIDIO COUNTIES).
(a) The 394th Judicial District is composed of Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio counties.
(b) The terms of the 394th District Court begin:
(1) in Brewster County on the first Monday in March and the third Monday in September;
(2) in Culberson County on the third Monday in October and the first Monday in April;
(3) in Hudspeth County on the third Monday in March and the first Monday in September;
(4) in Jeff Davis County on the second Mondays in January and July; and
(5) in Presidio County on the third Monday after the first Mondays in January and July.
(c) A judge of the 394th Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by creating the 394th Judicial District. This change is also necessary to prohibit assignment of the judge as a visiting judge to certain counties.

(11) Senate Rule 12.03(3) is suspended to permit the committee to amend Sections 43.120(a) and (b), Government Code, to read as follows:
(a) The voters of Culberson, Hudspeth, and El Paso counties [the 34th Judicial District] elect a district attorney for the 34th Judicial District.
(b) The district attorney for the 34th Judicial District also acts as district attorney for the 41st, 65th, 120th, and 171st judicial districts, the 394th Judicial District in Culberson and Hudspeth counties, and represents the state in all criminal cases before every district court having jurisdiction in El Paso County.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by providing for the election and duties of the district attorney for the 34th Judicial District.

(12) Senate Rule 12.03(3) is suspended to permit the committee to amend Section 43.141, Government Code, to read as follows:
Sec. 43.141. 83RD JUDICIAL DISTRICT. (a) The voters of Brewster, Jeff Davis, Pecos, Presidio, Reagan, and Upton counties [the 83rd Judicial District] elect a district attorney for the 83rd Judicial District.
(b) The district attorney for the 83rd district also acts as district attorney for the 394th Judicial District in Brewster, Jeff Davis, and Presidio counties.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by providing for the election and duties of the district attorney for the 83rd Judicial District.

(13) Senate Rule 12.03(3) is suspended to permit the committee to add transition provisions to H.B. 3235 to read as follows:
SECTION ___. (a) The local administrative district judge shall transfer all cases from Culberson and Hudspeth counties that are pending in the 34th and 210th district courts on the effective date of this Act to the 394th District Court.

(b) The local administrative district judge shall transfer all cases from Brewster, Jeff Davis, and Presidio counties that are pending in the 83rd District Court on the effective date of this Act to the 394th District Court.

(c) When a case is transferred from one court to another as provided by Subsections (a) and (b) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

Explanation: This change is necessary to provide timely and efficient judicial services to residents of Texas by providing additional necessary transition provisions for H.B. 3235.

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

SENATE BILL 628 WITH HOUSE AMENDMENTS

Senator Madla called S.B. 628 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.

Floor Amendment No. 2

Amend S.B. 628 as follows:
(1) On page 1, line 22, strike all new language.
(2) On page 2, line 1, strike all new language.
(3) On page 2, line 2, strike all new language.

Floor Amendment No. 3

Amend S.B. 628 by striking SECTION 6 and adding a new SECTION 6 to read as follows:

SECTION 6. (a) The provisions of this act do not apply to a group model health maintenance organization that is a state certified health maintenance organization that provides the majority of its professional services through a single group medical practice that is formally affiliated with the medical school component of a Texas state supported public college or university and that received its certification as a health maintenance organization prior to November 1, 1981, or,

(b) a non-profit group practice model health maintenance organization that provides pharmaceutical services to its enrollees only through
pharmacies located at medical offices owned, leased or contracted for by the health maintenance organization and that received its certification prior to November 1, 1985.

The amendments were read.

On motion of Senator Madla and by unanimous consent, the Senate concurred in the House amendments to S.B. 628 by a viva voce vote.

**HOUSE BILL 2866 ON SECOND READING**

On motion of Senator Whitmire 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. 2866**, Relating to claims against a decedent's estate.

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

**HOUSE BILL 2866 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2866 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 a viva voce vote.

(Senator Turner in Chair)

**SENATE BILL 373 WITH HOUSE AMENDMENTS**

Senator Armbrister called S.B. 373 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**

Amend S.B. 373 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

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

**ARTICLE 1**

SECTION 1.01. Section 1.003, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subdivisions (13A) and (18) to read as follows:

(13A) The term "ratemaking proceeding" is limited to those proceedings in which rates are changed, except the term shall include proceedings initiated under Section 2.051 of this Act.
Trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional persons who are employed by public utilities or utility competitors to assist the public utility industry, a utility competitor, or the industry’s or competitor’s employees in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 1.02. Section 1.005, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.005. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT AND OPEN MEETINGS LAW. (a) Chapter 2001, Government Code, applies to all proceedings under this Act except to the extent inconsistent with this Act. Communications of members and employees of the commission with a party, a party’s representative, or other persons are governed by Section 2001.061, Government Code.

(b) The commission is subject to Chapter 551, Government Code.

SECTION 1.03. Subtitle A, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.006 to read as follows:

Sec. 1.006. ENTITY, COMPETITOR, OR SUPPLIER AFFECTED IN MANNER OTHER THAN BY SETTING OF RATES. In this Act, an entity, utility competitor, or utility supplier is considered to be affected in a manner other than by the setting of rates for that class of customer if during a relevant calendar year the entity provides fuel, utility-related goods, utility-related products, or utility-related services to a regulated or unregulated provider of telecommunications or electric services or to an affiliated interest in an amount equal to the greater of $10,000 or 10 percent of the person’s business.

SECTION 1.04. Subsections (c) and (d), Section 1.021, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(c) The governor shall designate a member of the commission as presiding officer of the commission to serve in that capacity at the pleasure of the governor. [At its first meeting following the biennial appointment and qualification of a commissioner, the commission shall elect one of the commissioners chairman.]

(d) Appointments to the commission shall be made without regard to the race, color, disability [creed], sex, religion, age, or national origin of the appointees.

SECTION 1.05. Section 1.022, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.022. SUNSET PROVISION. The Public Utility Commission of Texas and the Office of Public Utility Counsel are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the office are abolished and this Act expires September 1, 2001 [1995].
SECTION 1.06. Section 1.023, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.023. QUALIFICATIONS; OATH [AND BOND]; PROHIBITED ACTIVITIES. (a) To be eligible for appointment as a commissioner, a person must be a qualified voter, [not less than 30 years of age], a citizen of the United States, [and] a resident of the State of Texas, and a representative of the general public.

(b) Each commissioner shall qualify for office by taking the oath prescribed for other state officers and shall execute a bond for $5,000 payable to the state and conditioned on the faithful performance of his duties.

(c) A person is not eligible for appointment as a commissioner if at any time during the two-year period immediately preceding his appointment he personally served as an officer, director, owner, employee, partner, or legal representative of any public utility, or any affiliated interest, or any direct competitor of a public utility or he owned or controlled, directly or indirectly, stocks or bonds of any class with a value of $10,000 or more in a public utility, or any affiliated interest, or any direct competitor of a public utility.

(d) A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person’s activities for compensation on behalf of a profession related to the operation of the commission may not serve as a member of the commission or public utility counsel or act as the general counsel to the commission.

(e) A person is not eligible for appointment as a public member of the commission or for employment as the general counsel or executive director of the commission if:

(1) the person serves on the board of directors of a company that supplies fuel, utility-related services, or utility-related products to regulated or unregulated electric or telecommunications utilities; or

(2) the person or the person’s spouse:

   (A) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

   (B) owns or controls, directly or indirectly, more than a 10 percent interest or a pecuniary interest with a value exceeding $10,000 in:

      (i) a business entity or other organization regulated by the commission or receiving funds from the commission; or

      (ii) any utility competitor, utility supplier, or other entity affected by a commission decision in a manner other than by the setting of rates for that class of customer;

   (C) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or
(D) notwithstanding Paragraph (B) of this subdivision, has an interest in a mutual fund or retirement fund in which more than 10 percent of the fund's holdings at the time of appointment is in a single utility, utility competitor, or utility supplier in this state and the person does not disclose this information to the governor, senate, commission, or other entity, as appropriate.

(F) Notwithstanding any other provision of this Act, a person otherwise ineligible because of the application of Subsection (e)(2)(B) of this section may be appointed to the commission and serve as a commissioner or may be employed as the general counsel or executive director if the person:

(1) notifies the attorney general and commission that the person is ineligible because of the application of Subsection (e)(2)(B) of this section; and

(2) divests the person or the person's spouse of the ownership or control before beginning service or employment, or within a reasonable time if the person is already serving or employed at the time Subsection (e)(2)(B) of this section first applies to the person.

(g) An officer, employee, or paid consultant of a trade association in the field of public utilities may not be a member or employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(h) A person who is a spouse of an officer, manager, or paid consultant of a trade association in the field of public utilities may not be a commission member and may not be a commission employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

SECTION 1.07. Subsections (a), (d), and (e), Section 1.024, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(a) A commissioner or employee of the commission may not do any of the following during his period of service with the commission:

(1) have any pecuniary interest, either as an officer, director, partner, owner, employee, attorney, consultant, or otherwise, in any public utility or affiliated interest, or in any person or corporation or other business entity a significant portion of whose business consists of furnishing goods or services to public utilities or affiliated interests, but not including a nonprofit group or association solely supported by gratuitous contributions of money, property or services, other than a trade association;

(2) own or control any securities in a public utility, affiliated interest, or direct competitor of a public utility, either directly or indirectly; or

(3) accept any gift, gratuity, or entertainment whatsoever from any public utility, affiliated interest, or direct competitor of a public utility.
or from any person, corporation, agent, representative, employee, or other business entity a significant portion of whose business consists of furnishing goods or services to public utilities, affiliated interests, or direct competitors of public utilities, or from any agent, representative, attorney, employee, officer, owner, director, or partner of any such business entity or of any public utility, affiliated interest, or direct competitor of a public utility; provided, however, that the receipt and acceptance of any gifts, gratuities, or entertainment after termination of service with the commission whose cumulative value in any one-year period is less than $100 does not constitute a violation of this Act.

(d) A public utility, affiliated interest, or direct competitor of a public utility, or any person, corporation, firm, association, or business that furnishes goods or services to any public utility, affiliated interest, or direct competitor of a public utility, or any agent, representative, attorney, employee, officer, owner, director, or partner of any public utility, affiliated interest, or direct competitor of a public utility, or any person, corporation, firm, association, or business furnishing goods or services to any public utility, affiliated interest, or direct competitor of a public utility may not give or offer to give any gift, gratuity, employment, or entertainment whatsoever to any member or employee of the commission except as allowed by Subdivision (3) of Subsection (a) of this section, nor may any such public utility, affiliated interest, or direct competitor of a public utility or any such person, corporation, firm, association, or business aid, abet, or participate with any member, employee, or former employee of the commission in any activity or conduct that would constitute a violation of this subsection or Subdivision (3) of Subsection (a) of this section.

(e) It is not a violation of this section if a member of the commission or a person employed by the commission, upon becoming the owner of any stocks or bonds or other pecuniary interest in a public utility, affiliated interest, or direct competitor of a public utility [under the jurisdiction of the commission] otherwise than voluntarily, informs the commission and the attorney general of such ownership and divests himself of the ownership or interest within a reasonable time. In this section, a "pecuniary interest" includes income, compensation, and payment of any kind, in addition to ownership interests. It is not a violation of this section if such a pecuniary interest is held indirectly by ownership of an interest in a retirement system, institution, or fund which in the normal course of business invests in diverse securities independently of the control of the commissioner or employee.

SECTION 1.08. Section 1.025, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.025. PROHIBITION OF EMPLOYMENT OR REPRESENTATION. (a) A commissioner may not within two years, and an employee of the commission or an employee of the State Office of Administrative Hearings involved in hearing utility cases may not, within
one year after his employment with the commission or the State Office of Administrative Hearings has ceased, be employed by a public utility which was in the scope of the commissioner's or employee's official responsibility while the commissioner or employee was associated with the commission or the State Office of Administrative Hearings.

(b) During the time a commissioner or employee of the commission or an employee of the State Office of Administrative Hearings involved in hearing utility cases is associated with the commission or State Office of Administrative Hearings or at any time after, the commissioner or employee may not represent a person, corporation, or other business entity before the commission or State Office of Administrative Hearings or a court in a matter in which the commissioner or employee was personally involved while associated with the commission or State Office of Administrative Hearings or a matter that was within the commissioner's or employee's official responsibility while the commissioner or employee was associated with the commission or State Office of Administrative Hearings.

(c) The executive director or the executive director's designee shall provide to its members of the commission and to agency employees as often as necessary information regarding their qualifications for office or employment and their responsibilities under applicable laws relating to standards of conduct for state officers and employees.

SECTION 1.09. Section 1.026, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.026. GROUNDS FOR REMOVAL; VALIDITY OF ACTIONS.

(a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 1.023 of this Act; or
(2) does not maintain during the service on the commission the qualifications required by Section 1.023 of this Act; or
(3) violates a prohibition established by Section 1.023, 1.024, or 1.025 of this Act; or
(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or
(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then
notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer of the commission, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

(d) Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under this section.

(e) A training program established under this section shall provide information to the member regarding:

1. the enabling legislation that created the commission and its policymaking body to which the member is appointed to serve;
2. the programs operated by the commission;
3. the role and functions of the commission;
4. the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;
5. the current budget for the commission;
6. the results of the most recent formal audit of the commission;
7. the requirements of Chapters 551, 552, and 2001, Government Code;
8. the requirements of the conflict of interest laws and other laws relating to public officials; and
9. any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

SECTION 1.10. Subsections (a), (b), and (e), Section 1.028, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(a) The commission shall employ an executive director, a general counsel, and such officers, administrative law judges, hearing examiners, investigators, lawyers, engineers, economists, consultants, statisticians, accountants, administrative assistants, inspectors, clerical staff, and other employees as it deems necessary to carry out the provisions of this Act. All employees receive such compensation as is fixed by the legislature. The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.

(b) The executive director is responsible for the day-to-day operations of the commission and shall coordinate the activities of commission employees and employees as it deems necessary to carry out the provisions of this Act. All employees receive such compensation as is fixed by the legislature. The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.

[1] an executive director;
[2] a director of hearings who has wide experience in utility regulation and rate determination;
[3] a chief engineer who is a registered engineer and an expert in public utility engineering and rate matters;
[4] a chief accountant who is a certified public accountant, experienced in public utility accounting;
[5] a director of research who is experienced in the conduct of analyses of industry, economics, energy, fuel, and other related matters that the commission may want to undertake;
The commission shall employ administrative law judges to preside at hearings of major importance before the commission. An administrative law judge must be a licensed attorney with not less than five years' general experience or three years' experience in utility regulatory law. The administrative law judge shall perform his duties independently from the commission.

SECTION 1.11. Section 1.029, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.029. PERSONNEL POLICIES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees of the commission. The program shall require intra-agency posting of all positions concurrently with any public posting. The executive director or the executive director's designee shall develop a system of annual performance evaluations based on documented employee performance [measurable job tasks]. All merit pay for commission employees must be based on the system established under this section.

(b) The executive director or the executive director's designee shall prepare and maintain a written policy statement that assures implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

1. Personnel policies that comply with Chapter 21, Labor Code, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;
2. A comprehensive analysis of the commission workforce that meets federal and state guidelines;
3. Procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
4. Reasonable methods to appropriately address the underuse, including a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;

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[(6) a director of consumer affairs and public information;
(7) a director of utility evaluation;
(8) a director of energy conservation; and
(9) a general counsel]:
(c) The policy statement [plan] required under Subsection (b) of this section must [shall be filed with the governor's office within 60 days of the effective date of this Act] cover an annual period, [and] be updated at least annually and reviewed by the Commission on Human Rights for compliance with Subsection (b)(1) of this section, and [Progress reports shall be filed with [submitted to] the governor's office within 30 days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements].

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 1.12. Section 1.031, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.031. OFFICE; MEETINGS. (a) The principal office of the commission shall be located in the City of Austin, Texas, and shall be open daily during the usual business hours, Saturdays, Sundays, and legal holidays excepted. The commission shall hold meetings at its office and at such other convenient places in the state as shall be expedient and necessary for the proper performance of its duties.

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

SECTION 1.13. Subsection (a), Section 1.035, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(a) The commission shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting in the General Appropriations Act [publish an annual report to the governor, summarizing its proceedings, listing its receipts and the sources of its receipts, listing its expenditures and the nature of such expenditures, and setting forth such other information concerning the operations of the commission and the public utility industry as it considers of general interest].

SECTION 1.14. Section 1.036, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.036. [CONSUMER] INFORMATION; ACCESSIBILITY.

(a) The commission shall prepare information of public [consumer] interest describing the [regulatory] functions of the commission and [describing] the commission's procedures by which [consumer] complaints are filed with and resolved by the commission. The commission shall make the information available to the [general] public and appropriate state agencies.

(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address,
and telephone number of the commission for the purpose of directing complaints to the commission.

(c) The commission shall comply with federal and state laws related to program and facility accessibility. The commission shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

SECTION 1.15. Section 1.051, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.051. OFFICE OF PUBLIC UTILITY COUNSEL. (a) The independent Office of Public Utility Counsel represents the interests of residential and small commercial consumers.

(b) The chief executive of the Office of Public Utility Counsel is the public utility counsel, hereinafter referred to as counsellor. The counsellor is appointed by the governor with the advice and consent of the senate to a two-year term that expires on February 1 of the final year of the term. Appointment of the counsellor shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) The counsellor shall be a resident of Texas and admitted to the practice of law in this state who has demonstrated a strong commitment and involvement in efforts to safeguard the rights of the public and possesses the knowledge and experience necessary to practice effectively in utility proceedings.

(d) A person is not eligible for appointment as counsellor if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a pecuniary interest with a value exceeding $10,000 in:

(A) a business entity or other organization regulated by the commission or receiving funds from the commission or the office; or

(B) any utility competitor, utility supplier, or other entity affected by a commission decision in a manner other than by the setting of rates for that class of customer;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission or the office, other than compensation or reimbursement authorized by law for counsellor or commission membership attendance or expenses; or

(4) notwithstanding Subdivision (2) of this subsection, has an interest in a mutual fund or retirement fund in which more than 10 percent of the fund's holdings is in a single utility, utility competitor, or utility supplier in this state and the person does not disclose this information to the governor, senate, or other entity, as appropriate.

(e) A person may not serve as counsellor if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the
person's activities for compensation related to the operation of the
commission or the office.

(f) An officer, employee, or paid consultant of a trade association in
the field of public utilities may not serve as counsellor or be an employee
of the office who is exempt from the state's position classification plan or
is compensated at or above the amount prescribed by the General
Appropriations Act for step 1, salary group 17, of the position
classification salary schedule. A person who is the spouse of an officer,
manager, or paid consultant of a trade association in the field of public
utilities may not serve as counsellor and may not be an office employee
who is exempt from the state's position classification plan or is
compensated at or above the amount prescribed by the General
Appropriations Act for step 1, salary group 17, of the position
classification salary schedule.

(g) Notwithstanding any other provision of this Act, a person
otherwise ineligible because of the application of Subsection (d)(2) of this
section may be appointed as counsellor and may serve as counsellor if the
person:

(1) notifies the attorney general and commission that the person is
ineligible because of the application of Subsection (d)(2) of this section;
and

(2) divests the person or the person's spouse of the ownership or
control before appointment, or within a reasonable time if the person is
already serving at the time Subsection (d)(2) of this section first applies
to the person.

SECTION 1.16. Subtitle C, Title I, Public Utility Regulatory Act of
1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended by adding Section 1.0511 to read as follows:

Sec. 1.0511. GROUNDS FOR REMOVE. (a) It is a ground for
removal from office if the counsellor:

(1) does not have at the time of appointment the qualifications
required by Section 1.051 of this Act;

(2) does not maintain during service as counsellor the
qualifications required by Section 1.051 of this Act;

(3) violates a prohibition established by Section 1.051 or 1.0512
of this Act; or

(4) cannot discharge the counsellor's duties for a substantial part
of the term for which the counsellor is appointed because of illness or
disability.

(b) The validity of an action of the office is not affected by the fact
that it is taken when a ground for removal of the counsellor exists.

SECTION 1.17. Subtitle C, Title I, Public Utility Regulatory Act of
1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended by adding Section 1.0512 to read as follows:

Sec. 1.0512. PROHIBITION OF EMPLOYMENT OR
REPRESENTATION. (a) The counsellor may not within two years, and
an employee of the office may not, within one year after his employment
with the office has ceased, be employed by a public utility which was in
the scope of the counsellor's or employee's official responsibility while the
counsellor or employee was associated with the office.

(b) During the time the counsellor or an employee of the office is
associated with the office or at any time after, the counsellor or employee
may not represent a person, corporation, or other business entity before the
commission or a court in a matter in which the counsellor or employee was
personally involved while associated with the office or a matter that was
within the counsellor's or employee's official responsibility while the
counsellor or employee was associated with the office.

SECTION 1.18. Subtitle C, Title I, Public Utility Regulatory Act of
1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended by adding Section 1.0513 to read as follows:

Sec. 1.0513. INFORMATION: ACCESSIBILITY. (a) The office shall
prepare annually a complete and detailed written report accounting for all
funds received and disbursed by the office during the preceding fiscal year.
The annual report must meet the reporting requirements applicable to
financial reporting provided in the General Appropriations Act.

(b) The office shall prepare information of public interest describing
the functions of the office. The office shall make the information available
to the public and appropriate state agencies.

(c) The office shall comply with federal and state laws related to
program and facility accessibility. The office shall also prepare and
maintain a written plan that describes how a person who does not speak
English can be provided reasonable access to the office's programs and
services.

SECTION 1.19. Section 1.052, Public Utility Regulatory Act of 1995,
as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended to read as follows:

Sec. 1.052. INTEREST PROHIBITED. During the period of the
counsellor's employment and for a period of two years following the
termination of employment, it shall be unlawful for any person employed
as counsellor to have a direct or indirect interest in any utility company
regulated under this Act, to provide legal services directly or indirectly to
or be employed in any capacity by a utility company regulated under this
Act, its parent, or its subsidiary companies, corporations, or cooperatives
or a utility competitor, utility supplier, or other entity affected in a manner
other than by the setting of rates for that class of customer; but such
person may otherwise engage in the private practice of law after the
termination of employment as counsellor.

SECTION 1.20. Section 1.053, Public Utility Regulatory Act of 1995,
as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session,
1995, is amended to read as follows:

Sec. 1.053. EMPLOYEES. (a) The counsellor may employ such
lawyers, economists, engineers, consultants, statisticians, accountants,
clerical staff, and other employees as he or she deems necessary to carry
out the provisions of this section. All employees shall receive such
compensation as is fixed by the legislature from the assessment imposed
by Section 1.351 of this Act.
The counsellor or the counsellor's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the office. The program shall require intra-agency postings of all positions concurrently with any public posting. The counsellor or the counsellor's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for office employees must be based on the system established under this subsection.

(c) The counsellor or the counsellor's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

1. Personnel policies that comply with Chapter 21, Labor Code, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;
2. A comprehensive analysis of the office workforce that meets federal and state guidelines;
3. Procedures by which a determination can be made about the extent of underuse in the office workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
4. Reasonable methods to appropriately address the underuse.

(d) A policy statement prepared under Subsection (c) of this section must cover an annual period, be updated at least annually and reviewed by the Commission on Human Rights for compliance with Subsection (c)(1) of this section, and be filed with the governor's office. The governor's office shall deliver a biennial report to the legislature based on the information received under this subsection. The report may be made separately or as a part of other biennial reports made to the legislature.

(e) The office shall provide to its employees, as often as necessary, information regarding their qualification for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 1.21. Section 1.101, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.101. GENERAL POWER; RULES; HEARINGS[—AUDITS].

(a) The commission has the general power to regulate and supervise the business of every public utility within its jurisdiction and to do all things, whether specifically designated in this Act or implied herein, necessary and convenient to the exercise of this power and jurisdiction.

(b) The commission shall make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the utility division of the State Office of Administrative Hearings. The commission shall adopt rules authorizing an administrative law judge to:
(1) limit the amount of time that a party may have to present its case;
(2) limit the number of requests for information that a party may make in a contested case;
(3) require a party to a contested case to identify contested issues and facts before the hearing begins and to limit cross-examination to only those issues and facts and to any new issues that may arise as a result of the discovery process; and
(4) group parties, other than the office, that have the same position on an issue to facilitate cross-examination on that issue, provided that each party in a group is entitled to present that party's witnesses for cross-examination during the hearing.
(c) Rules adopted under Subsection (b) of this section must ensure that all parties receive due process.
(d) The commission may call and hold hearings, administer oaths, receive evidence at hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, or other actions of the commission.
(e) Hearings in contested cases not conducted by one or more commissioners shall be conducted by the utility division of the State Office of Administrative Hearings. The commission may delegate to the utility division of the State Office of Administrative Hearings the authority to make a final decision and to issue findings of fact, conclusions of law, and other necessary orders in a proceeding in which there is no contested issue of fact or law. The commission by rule shall define the procedures by which it delegates final decision-making authority authorized by this section. For review purposes the final decision of the administrative law judge has the same effect as a final decision of the commission unless a commissioner requests formal review of the decision.
SECTION 1.22. Subsection (b), Section 1.102, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:
(b) The commission may audit each utility under the jurisdiction of the commission as frequently as needed, but shall audit each utility at least once every 10 years. Six months after any audit, the utility shall report to the commission on the status of the implementation of the recommendations of the audit and shall file subsequent reports at such times as the commission deems appropriate.
SECTION 1.23. Subtitle D, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.104 to read as follows:
Sec. 1.104. SETTLEMENTS. (a) The commission by rule shall adopt procedures governing the use of settlements to resolve contested cases.
(b) The rules shall ensure that:

(1) each party retains the right to:

(A) have a full hearing before the commission on issues that remain in dispute; and

(B) judicial review of issues that remain in dispute;

(2) an issue of fact raised by a nonsettling party cannot be waived by a settlement or stipulation of the other parties; and

(3) the nonsettling party may use the issue of fact raised by that party as the basis for judicial review.

SECTION 1.24. Section 1.202, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.202. POWERS OF COMMISSION. (a) The commission shall have the power to:

(1) require that public utilities report to it such information relating to themselves and to transactions between themselves and affiliated interests both within and without the State of Texas to the extent that those transactions are subject to the jurisdiction of the commission [as it may consider useful in the administration of this Act];

(2) establish forms for all reports;

(3) determine the time for reports and the frequency with which any reports are to be made;

(4) require that any reports be made under oath;

(5) require that a copy of any contract or arrangement between any public utility and any affiliated interest be filed with it. It may require any such contract or arrangement not in writing to be reduced to writing and filed with it;

(6) require that a copy of any report filed with any federal agency or any governmental agency or body of any other state be filed with it; and

(7) require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body be filed with it.

(b) [The railroad commission shall have the power to review and approve, for purposes of the Outer Continental Shelf Lands Act Amendments of 1978 and any other federal authorities, applications by gas utilities for the purchase of natural gas from producing affiliates:]

[(c)] On the request of the governing body of any municipality, the commission may provide sufficient staff members to advise and consult with such municipality on any pending matter.

SECTION 1.25. Subsection (b), Section 1.251, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) All transactions involving the sale of 50 percent or more of the stock of a public utility shall also be reported to the commission within
a reasonable time. On the filing of a report with the commission, the commission shall investigate the same with or without public hearing to determine whether the action is consistent with the public interest. In reaching its determination, the commission shall take into consideration the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged, transferred, or consolidated and whether such a transaction will adversely affect the health or safety of customers or employees, result in the transfer of jobs of Texas citizens to workers domiciled outside the State of Texas, or result in the decline of service, that the public utility will receive consideration equal to the reasonable value of the assets when it sells, leases, or transfers assets, and that the transaction is consistent with the public interest.

SECTION 1.26. Section 1.271, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.271. JURISDICTION OVER AFFILIATED INTERESTS. The commission shall have jurisdiction over affiliated interests having transactions with public utilities under the jurisdiction of the commission to the extent of access to all accounts and records of such affiliated interests relating to such transactions, including but in no way limited to accounts and records of joint or general expenses, any portion of which may be applicable to such transactions. Any accounts or records obtained by the commission related to sales of electrical energy at wholesale by an affiliated interest to the public utility shall be confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 1.27. Subtitle I, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.3215 to read as follows:

Sec. 1.3215. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty against a person regulated under this Act who violates this Act or a rule or order adopted under this Act.

(b) The penalty for a violation may be in an amount not to exceed $5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) If the executive director determines that a violation has occurred, the executive director may issue to the commission a report that states the
facts on which the determination is based and the director's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty. Before any penalty may be assessed under this section, the person against whom the penalty may be assessed shall be given 30 days after receiving from the executive director the notice of the report summarizing the alleged violation pursuant to this subsection in which to cure the violation and the person must fail to cure the alleged violation within the 30-day period. The person against whom the penalty may be assessed who claims to have cured the alleged violation shall have the burden of proving to the commission that the alleged violation was cured and was accidental or inadvertent.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the executive director or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the executive director, the commission by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the commission's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the commission's order is final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or
(3) Without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) of this section may:

(1) Stay enforcement of the penalty by:
   (A) Paying the amount of the penalty to the court for placement in an escrow account; or
   (B) Giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the commission's order is final; or

(2) Request the court to stay enforcement of the penalty by:
   (A) Filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and
   (B) Giving a copy of the affidavit to the executive director by certified mail.

(i) The executive director, on receipt of a copy of an affidavit under Subsection (k)(2) of this section, may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the commission:
   (1) Is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and
   (2) Is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a
supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to Chapter 2001, Government Code.

(s) The executive director may delegate to a person that the executive director designates any power or duty given the executive director by this section.


SECTION 1.29. Subsection (b), Section 1.351, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) The legislature may, subject to the approval of the legislature, adjust this assessment to provide a level of income sufficient to fund the commission and the office of public utility counsel.

SECTION 1.30. Section 1.354, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.354. COLLECTION AND PAYMENT INTO GENERAL REVENUE FUND. (a) All fees, penalties, and interest paid under the provisions of Sections 1.351, 1.352, and 1.353 of this Act shall be collected by the comptroller of public accounts and paid into the general revenue fund. [The commission shall notify the comptroller of public accounts of any adjustment of the assessment imposed in Section 1.351 when made.]

(b) All money paid to the commission or to the office under this Act is subject to Subchapter F, Chapter 404, Government Code.

SECTION 1.31. Section 1.355, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 1.355. GRANTS OF FEDERAL FUNDS. (a) The commission may apply to any appropriate agency or officer of the United States to receive and spend federal funds which it may obtain from grants or other similar forms of financial assistance. Nothing in this section shall inhibit the commission's ability to contract with or otherwise receive assistance from any state, local, or other authorized source of funds.

(b) Sections 403.094 and 403.095, Government Code, do not apply to the special account established under this section. [APPROVAL OF BUDGET. The budget of the commission shall be subject to legislative approval as part of the appropriations act.]

SECTION 1.32. Subtitle J, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.357 to read as follows:
Sec. 1.357. APPROVAL OF BUDGET. The budget of the commission shall be subject to legislative approval as part of the General Appropriations Act.

SECTION 1.33. Subsections (a) and (b), Section 1.401, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(a) Any affected person may complain to the regulatory authority in writing setting forth any act or thing done or omitted to be done by any public utility in violation or claimed violation of any law which the regulatory authority has jurisdiction to administer or of any order, ordinance, rule, or regulation of the regulatory authority. The commission shall keep [are] information [file] about each complaint filed with the commission [relating to a utility]. The commission shall retain the information [file] for a reasonable period. The information shall include:

1. the date the complaint is received;
2. the name of the complainant;
3. the subject matter of the complaint;
4. a record of all persons contacted in relation to the complaint;
5. a summary of the results of the review or investigation of the complaint; and
6. for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.

(b) The commission shall keep a file about each [file] written complaint [is] filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and to the persons or entities complained about the commission’s policies and procedures pertaining to complaint investigation and resolution. The [relating to a utility, the] commission, at least [as frequently as] quarterly and until final disposition of the complaint, shall notify the person filing [parties to] the complaint and each person or entity complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 1.34. Subchapter C, Chapter 2003, Government Code, is amended by adding Section 2003.047 to read as follows:

Sec. 2003.047. UTILITY DIVISION. (a) The office shall establish a utility division to perform the contested case hearings for the Public Utility Commission of Texas as prescribed by the Public Utility Regulatory Act of 1995 and other applicable law.

(b) The utility division shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate the responsibility to hear any other matter before the commission if consistent with the duties and responsibilities of the division.

(c) Only an administrative law judge in the utility division may conduct a hearing on behalf of the commission. An administrative law judge in the utility division may conduct hearings for other state agencies as time allows. The office may transfer an administrative law judge into
the division on a temporary or permanent basis and may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have not less than five years of general experience or three years of experience in utility regulatory law.

(e) At the time the office receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.

(f) The office and the commission shall jointly adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(g) Notwithstanding Section 2001.058, the commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:

(1) determines that the administrative law judge:
(A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or
(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(h) The commission shall state in writing the specific reason and legal basis for its determination under Subsection (g).

(i) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (i) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:
(A) in bad faith;
(B) for the purpose of harassment; or
(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(j) A sanction imposed under Subsection (i) may include, as appropriate and justified, issuance of an order:
(1) disallowing further discovery of any kind or of a particular kind by the offending party;
(2) charging all or any part of the expenses of discovery against the offending party or its representative;
(3) holding that designated facts be deemed admitted for purposes of the proceeding;
(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;
(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;
(6) punishing the offending party or its representative for contempt to the same extent as a district court;
(7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and
(8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.

(k) Hearings conducted for the commission by the office shall be held in hearing rooms provided by the commission. The commission shall also provide the utility division access to its computer systems, databases, and library resources.

(l) The office shall charge the commission a fixed annual fee rather than an hourly rate for services rendered by the utility division to the commission. The office and the commission shall negotiate the amount of the fixed fee biennially, subject to the approval of the governor, to coincide with the commission's legislative appropriations request.

SECTION 1.35. (a) A task force is established to administer the transfer of the hearings division from the Public Utility Commission of Texas to the State Office of Administrative Hearings. The task force is composed of:
(1) the governor or the governor's designee;
(2) the Legislative Budget Board or the board's designee;
(3) the chairman of the Public Utility Commission of Texas;
(4) the public utility counsel; and
(5) the chief administrative law judge of the State Office of Administrative Hearings.
(b) The governor or the governor's designee is the presiding officer of the task force.
(c) The task force shall:
(1) determine the personnel, equipment, data, facilities, and other items that will be transferred under this Act and the schedule for the transfers; and
(2) mediate and resolve disputes between the respective agencies relating to a transfer.
(d) After the transfers have been completed, the task force shall prepare a written report detailing the specifics of the transfers and shall submit the report to the governor and the legislature.
(e) In determining a transfer under this Act, the task force shall ensure that the transfer does not adversely affect a proceeding before the Public Utility Commission of Texas or the rights of the parties to the proceeding.

(f) This section takes effect immediately.

SECTION 1.36. (a) On September 1, 1995, all personnel, including hearings examiners and administrative law judges, equipment, data, facilities, and other items of the hearings division of the Public Utility Commission of Texas, other than the personnel, equipment, data, facilities, and other items of the central records office, are transferred to the utility division of the State Office of Administrative Hearings. Until September 1, 1996, an employee transferred to the utility division may be terminated or subject to salary reduction only for cause and only in relation to poor performance or unacceptable conduct. A hearings examiner transferred to the State Office of Administrative Hearings becomes an administrative law judge on the date of transfer.

(b) A hearings examiner or administrative law judge transferred from the Public Utility Commission of Texas to the State Office of Administrative Hearings shall continue to hear any case assigned to the person as if the transfer had not occurred.

(c) The changes in law made by this Act that relate to the procedures governing a hearing before the utility division of the State Office of Administrative Hearings apply only to a case that is filed on or after September 1, 1995. In addition, the procedures prescribed by the provisions amended by this Act shall continue to be used in a hearing as those provisions existed on August 31, 1995. The former law is continued in effect for those purposes.

(d) The Public Utility Commission of Texas is not required by this Act or amendments made by this Act to adopt new rules governing practice and procedure before the Public Utility Commission of Texas or the utility division of the State Office of Administrative Hearings. The rules in effect on the effective date of this Act remain in effect until amended or repealed as required by law. Any rules adopted after the effective date of this Act governing practice and procedure before the utility division of the State Office of Administrative Hearings must be adopted jointly by that office and the commission.

SECTION 1.37. Section 1.3215, Public Utility Regulatory Act of 1995, as added by this Act, applies only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is governed by the law in effect when the violation occurred, and that law is continued in effect for that purpose.

SECTION 1.38. Section 1.104, Public Utility Regulatory Act of 1995, as added by this Act, applies only to a proceeding for which a final order has not been issued before the effective date of this Act and does not apply to an electric utility merger proceeding filed before January 1, 1995, in which a final order has not been issued. Except as otherwise provided by this section, on or after the effective date of this Act, the Public Utility Commission of Texas may not approve a settlement unless the settlement has been reached in accordance with rules adopted under Section 1.104, Public Utility Regulatory Act of 1995, as added by this Act.
SECTION 1.39. The changes in law made by this Act relating to the requirements for membership on the Public Utility Commission of Texas, to the requirements for service as public utility counsel, or to employment as executive director or general counsel of the commission apply only to a person appointed or hired, as appropriate, on or after the effective date of this Act and do not affect the entitlement of a member serving on the commission on August 31, 1995, to continue to hold office for the remainder of the term for which the person was appointed or the ability of a person serving as public utility counsel, executive director, or general counsel on August 31, 1995, to continue to hold that position.

ARTICLE 2

SECTION 2.01. Subtitle A, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by amending Section 2.001 and adding Sections 2.0011 and 2.0012 to read as follows:

Sec. 2.001. LEGISLATIVE POLICY CONCERNING REGULATION OF THE ELECTRIC UTILITY INDUSTRY. (a) This title is enacted to protect the public interest inherent in the rates and services of public utilities. The legislature finds that public utilities are by definition monopolies in many of the services they provide and in many of the areas they serve, and that therefore the normal forces of competition that operate to regulate prices in a free enterprise society do not always operate, and that therefore, except as otherwise provided for in this Act, utility rates, operations, and services are regulated by public agencies. The purpose of this title is to establish a comprehensive regulatory system that is adequate to the task of regulating public utilities as defined in this title, to assure rates, operations, and services that are just and reasonable to consumers and to the utilities. The legislature finds that the wholesale electric industry through federal legislative, judicial, and administrative actions is becoming a more competitive industry which does not lend itself to traditional electric utility regulatory rules, policies, and principles and that therefore, the public interest requires that new rules, policies, and principles be formulated and applied to protect the public interest in a more competitive marketplace. The development of a competitive wholesale electric market that allows for increased participation by both utilities and certain nonutilities is in the public interest.

(b) On application by a public utility, the regulatory authority may approve wholesale tariffs or contracts containing charges that are less than rates approved by the regulatory authority but equal to or greater than the utility's marginal cost. The charges must be in accordance with the principles of this Act and may not be unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive.

(c) The methodology for calculating the marginal cost of the electric utility shall consist of energy and capacity components. The energy component shall include variable operation and maintenance expense and marginal fuel or the energy component of purchased power. The capacity component included shall be based on the annual economic value of deferring, accelerating, or avoiding the next increment of any needed
capacity, whether such capacity is purchased or built. The commission shall ensure that the methodology for determining marginal cost is consistently applied among utilities but may recognize in any case the individual load and resource requirements of the utility.

(4) Notwithstanding any other provision of this Act, the commission shall ensure that the utility's allocable costs of serving customers paying discounted rates under this section or Section 2.052 are not borne by the utility's other customers. The mark-ups, if any, approved pursuant to Sections 2.051 and 2.1511 are an exceptional form of rate relief which may be recovered from ratepayers only on entry of a finding by the commission that such relief is necessary to maintain the financial integrity of the utility.

Sec. 2.0011, DEFINITIONS. In this title,

(1) "Public utility" or "utility" means any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for producing, generating, transmitting, selling, or furnishing electricity in this state (hereinafter "electric utility"); provided, however, that this definition may not be construed to apply to or include a qualifying facility (small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C))). The term does not include an exempt wholesale generator, a power marketer, or a corporation as prescribed by Section 2.0012 of this Act, or any person or corporation not otherwise a public utility that:

(A) furnishes the services or commodity described in this section only to itself, its employees, or its tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others;

(B) owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation; or

(C) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Article 1446d-2, Revised Statutes, provided that a recreational vehicle park owner is considered a public utility if the owner fails to comply with Article 1446d-2, Revised Statutes, with regard to the metered sale of electricity at the recreational vehicle park.

(2) "Exempt wholesale generator" means a person that is engaged directly, or indirectly through one or more affiliates, exclusively in the business of owning, operating, or both owning and operating all or part of one or more facilities for the generation of electric energy and selling electric energy at wholesale and that:
(A) does not own facilities for the transmission of electricity, other than essential interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale; and

(B) has applied to the Federal Energy Regulatory Commission for a determination under Section 32, Public Utility Holding Company Act (15 U.S.C. Section 79z-5a), or has registered as an exempt wholesale generator as required by this Act.

(3) "Power marketer" means a person that:
(A) becomes owner of electric energy in this state for the purpose of buying and selling the electric energy at wholesale;
(B) does not own generation, transmission, or distribution facilities in this state;
(C) does not have a certificated service area; and
(D) has been granted authority by the Federal Energy Regulatory Commission to sell electric energy at market-based rates or has registered as a power marketer under this Act.

(4) "Qualifying cogenerator" and "qualifying small power producer" have the meanings assigned by Sections 3(18)(C) and 3(17)(D), Federal Power Act (16 U.S.C. Sections 796(18)(C) and 796(17)(D)).

(5) "Qualifying facility" means a qualifying cogenerator or qualifying small power producer.

(6) "Rate" means and includes every compensation, tariff, charge, fare, toll, rental, and classification, or any of them demanded, observed, charged, or collected whether directly or indirectly by any public utility for any service, product, or commodity described in the definition of "utility" in Section 2.001 or 3.001 of this Act and any rules, regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification that must be approved by a regulatory authority.

(7) "Transmission service" includes construction or enlargement of facilities, transmission over distribution facilities, control area services, scheduling resources, regulation service, providing operating reserves, reactive power support, voltage control, and any other associated electrical services deemed appropriate by the commission.

Sec. 2.0012. CERTAIN RIVER AUTHORITIES. (a) Notwithstanding any other provision of this Act to the contrary, the commission shall not have the authority to regulate directly or indirectly the revenue requirements, rates, fuel costs, fuel charges, or fuel acquisitions that are related to the generation and sale of electricity at wholesale and not to ultimate consumers by a river authority operating one or more steam generating plants. Subject to the provisions of this section, the term "public utility," "retail public utility," or "utility" shall not include a corporation authorized by Chapter 245, Acts of the 67th Legislature, Regular Session, 1981 (Article 717p, Vernon's Texas Civil Statutes) and acting on behalf of the river authority to the extent that the corporation sells electricity exclusively at wholesale and not to ultimate consumers.

(b) This section shall constitute full authority for any river authority operating one or more steam generating plants to acquire, finance,
construct, rebuild, repower, and use new and existing power plants, equipment, transmission lines, and other assets, for the sale of electricity exclusively at wholesale and not at retail to any purchaser within San Saba, Llano, Burnet, Travis, Bastrop, Blanco, Colorado, and Fayette counties and any purchaser within the area served by the river authority on January 1, 1975.

(c) This section shall constitute full authority for a corporation described in Subsection (a) of this section to acquire, finance, construct, rebuild, repower, operate, or sell facilities directly related to the generation of electricity and sell the output of such facilities, to the extent that such corporation sells such electricity to any purchaser at any location in this state exclusively at wholesale, and not to ultimate consumers, notwithstanding any provisions to the contrary in the river authority's enabling legislation or Chapter 245, Acts of the 67th Legislature, Regular Session, 1981 (Article 717b, Vernon's Texas Civil Statutes), provided that nothing in this section shall preclude the corporation from purchasing transmission and related services from such river authority. Except as provided in this section, the development, financing, ownership, and operation of such facilities by such corporation shall be subject to the provisions of all applicable laws other than this Act, and the property, gross receipts, and income of such corporation acting on behalf of a river authority pursuant to this section shall be subject to, and such corporation shall pay, taxes and assessments of the federal government or of this state or of any municipal corporation, county, or other political subdivision or taxing district of this state on the same basis as an exempt wholesale generator. No proceeds from the sale of bonds or other obligations, the interest on which is exempt from taxation, issued by the corporation or river authority, other than as may be available to investor-owned utilities or exempt wholesale generators, shall be used, or shall have been used, to finance the construction or acquisition of or rebuilding or repowering of any facilities for the generation of electricity by the corporation.

(d) This section shall not authorize the river authority to acquire, install, construct, make additions to, or operate steam generating plants whose aggregate capacity is greater than 5,000 megawatts to serve purchasers within the area served by the river authority on January 1, 1975. In addition, any river authority subject to this section and any corporation acting on behalf of such river authority may provide retail service only to those retail customers served by the river authority or corporation acting on behalf of the river authority on September 1, 1995.

(e) Nothing in this section shall otherwise limit the powers granted a river authority in its enabling legislation and other applicable law.

SECTION 2.02. Subtitle A, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.003 to read as follows:

Sec. 2.003. SCOPE OF COMPETITION. Before January 15 of each odd-numbered year, the commission shall report to the legislature on the scope of competition in electric markets and the impact of competition and industry restructuring on customers in both competitive and noncompetitive
markets. The report shall include an assessment of the impact of competition on the rates and availability of electric services for residential and small commercial customers and a summary of commission actions over the preceding two years that reflect changes in the scope of competition in regulated electric markets. The report shall also include recommendations to the legislature for further legislation that the commission finds appropriate to promote the public interest in the context of a partially competitive electric market.

SECTION 2.03. Section 2.051, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 2.051. INTEGRATED RESOURCE PLANNING. (a) The commission by rule shall develop an integrated resource planning process to provide reliable energy service at the lowest reasonable system cost. In determining the lowest reasonable system cost of an electric utility's plan, the commission shall consider in addition to direct costs the following:

(1) the effect on the rates and bills of various types of customers;
(2) minimization of the risks of future fuel costs and regulations;
(3) the appropriateness and reliability of the mix of resources; and
(4) the costs of compliance with the environmental protection requirements of all applicable state and federal laws, rules, and orders.

(b) The commission by rule shall adopt and periodically update a statewide integrated resource plan that includes the commission's long-term resource planning goals. The commission shall send a report on the plan to the governor when it adopts or revises the plan and notify each public utility of the approval of the statewide plan. The commission shall make the report available to the public.

(c) The report on the statewide plan shall include:

(1) historical data for electric consumption statewide and by utility;
(2) historical data for electric generation by utility and by type of capacity, including alternative energy sources;
(3) an inventory of generation capacity statewide and by utility;
(4) quantitative data on demand-side management programs to the extent the commission determines necessary;
(5) each generating utility's forecast without adjustment;
(6) the commission's long-term resource planning goals included in the plan;
(7) a projection of the need for electric services;
(8) a description of the approved individual integrated resource plans of public utilities; and
(9) an assessment of transmission planning being performed by utilities within this state.

(d) In prescribing the requirements under this section, including reporting requirements, the commission shall consider and recognize the differences in capabilities of small and large utilities.

(e) Generating public utilities as well as non-generating public utilities planning to construct generating resources shall submit to the commission a preliminary integrated resource plan. Preliminary integrated resource
plans shall be submitted every three years and cover a 10-year period.

The commission by rule:

(1) shall:

(A) prescribe a staggered schedule for the submission of plans by utilities;

(B) prescribe the form and manner in which a plan must be submitted;

(C) adopt filing requirements and schedules; and

(D) prescribe the methods by which a utility may recover supply-side and demand-side costs; and

(2) may:

(A) define the scope and nature of public participation in the development of the plan; and

(B) establish the general guidelines to be used by utilities in evaluating and selecting or rejecting resources, including procedures governing the solicitation process.

(f) A preliminary plan submitted under this section must include:

(1) the utility's forecast of future demands;

(2) an estimate of the energy savings and demand reduction the utility can achieve during the 10-year period by use of demand-side management resources and the range of possible costs for those resources;

(3) if additional supply-side resources are needed to meet future demand, an estimate of:

(A) the amount and operational characteristics of the additional capacity needed;

(B) the types of viable supply-side resources for meeting that need; and

(C) the range of probable costs of those resources;

(4) if necessary, proposed requests for proposals for demand-side or supply-side resources, or both;

(5) the specific criteria the utility will use to evaluate and select or reject those resources, which criteria may deviate from the general guidelines on a showing of good cause;

(6) the methods by which the utility intends to monitor those resources after selection;

(7) the method by which the utility intends to allocate costs;

(8) a description of how each utility will achieve equity among customer classes and provide demand-side programs to each customer class, including tenants and low income ratepayers;

(9) any proposed incentive factors; and

(10) any other information the commission requires.

(g) Every three years, a municipally owned utility shall submit to the commission a report containing all of the information required in a preliminary integrated resource plan under Subsection (f) of this section, but shall not otherwise be subject to the requirements of this section.

(h) If the utility's preliminary plan does not include a proposed solicitation under Subsection (f)(4) of this section, the plan shall be filed
with the commission so that the commission may compile the report required in Subsection (c) of this section. Only if the utility's preliminary plan includes a proposed solicitation under Subsection (f)(4) of this section may the commission, on its own motion or on the motion of the utility or of an affected person, convene a public hearing on the adequacy and merits of the preliminary plan. At the hearing, any interested person may intervene, present evidence, and cross-examine witnesses regarding the contents and adequacy of the preliminary plan. Discovery is limited to an issue relating to the development of the preliminary plan, a fact issue included in the preliminary plan, and other issues the commission is required to decide relating to the preliminary plan. A commission hearing is not required for a preliminary plan filed by a river authority or generating electric cooperative that does not intend to build a new generating plant or for a preliminary plan filed by a municipally owned public utility.

(i) After the hearing, the commission shall determine:

(1) whether the utility's preliminary plan is based on substantially accurate data and an adequate method of forecasting;

(2) whether the utility's preliminary plan identifies and takes into account any present and projected reductions in the demand for energy that may result from cost-effective measures to improve conservation and energy efficiency in various customer classes of the area being served;

(3) if additional supply-side resources are needed to meet future demand, whether the utility's preliminary plan adequately demonstrates:

(A) the amount and operational characteristics of the additional capacity needed;

(B) the types of viable supply-side resources for meeting that need; and

(C) the range of probable costs of those resources;

(4) whether the utility's preliminary plan demonstrates the opportunities for appropriate persons to participate in the development of the preliminary plan;

(5) whether the specific criteria the utility will use to evaluate and select or reject resources are reasonable and consistent with the guidelines of the integrated resource planning process;

(6) whether the cost allocation method proposed by the utility is reasonable;

(7) how the utility will achieve equity among customer classes and provide demand-side programs to each customer class, including tenants and low income ratepayers; and

(8) whether any incentive factors are appropriate and, if so, the levels of such incentive factors.

(i) Not later than the 180th day after the date the utility files the preliminary plan, the commission shall issue an interim order on the preliminary plan. The commission shall approve the preliminary plan, modify the preliminary plan, or, if necessary, remand the preliminary plan for additional proceedings. The 180-day period may be extended for a period not to exceed 30 days for extenuating circumstances encountered in
the development and processing of an initial plan, if the extenuating circumstances are fully explained and agreed on by the commissioners.

(k) On approval of the preliminary plan, the utility shall conduct solicitations for demand-side and supply-side resources, as prescribed in the preliminary plan. In addition to soliciting resources from unaffiliated third parties, the utility may:

(1) prepare and submit a bid of a new utility demand-side management program as prescribed by Subsection (m) of this section;
(2) receive bids from one or more affiliates; and
(3) request a certificate of convenience and necessity for a new rate-based generating plant.

(l) Each bidder, including the utility and its affiliates, shall submit two copies of its bid to the commission. The commission shall ensure that the utility has access to all bids at the same time. The commission shall keep a copy of each bid submitted by the utility or an affiliate to determine whether the utility complied with the criteria established for conduct of the solicitation. A bid submitted under this subsection or retained under this subsection is confidential and is not subject to disclosure under Chapter 552, Government Code.

(m) If a utility wants to use a proposed demand-side management program to meet a need identified in the preliminary plan, the utility must prepare a bid reflecting that resource. A bid prepared by the utility under this subsection must comply with the solicitation, evaluation, selection, and rejection criteria specified in the preliminary plan. The utility may not give preferential treatment or consideration to a bid prepared under this subsection.

(n) The utility shall evaluate each bid submitted, including an affiliate bid, in accordance with the criteria specified in the preliminary plan and shall negotiate necessary contracts. The utility is not required to accept a bid and may reject any or all bids in accordance with the selection and rejection criteria specified in the preliminary plan. If the results of the solicitations and contract negotiations do not meet the supply-side needs identified in the preliminary plan, the utility may apply for a certificate of convenience and necessity for a utility-owned resource addition notwithstanding the fact a solicitation was conducted and the addition was not included in the approved preliminary plan.

(o) After conducting the solicitations and negotiating the contracts, the utility shall submit to the commission a proposed final integrated resource plan. The proposed final plan must include:

(1) the results of the solicitations;
(2) the contracts for resources;
(3) the terms and conditions under which the utility will provide resources to meet a need identified in the preliminary plan, if the utility accepts a bid submitted under Subsection (m) of this section; and
(4) an application for a certificate of convenience and necessity, if necessary.

(p) The commission shall, on request by any affected person and within 90 days after the date a utility files its final integrated resource plan
under this section, convene a public hearing on the reasonableness and cost-effectiveness of the proposed final plan. At the hearing, any interested person may intervene, present evidence, and cross-examine witnesses regarding the reasonableness and cost-effectiveness of the proposed final plan. Parties will not be allowed to litigate or conduct discovery on issues that were litigated or could have been litigated in connection with the filing of the utility's preliminary plan. To the extent permitted by federal law, the commission may issue a written order for access to the books, accounts, memoranda, contracts, or records of any exempt wholesale generator or power marketer selling energy at wholesale to a utility, if the examination is required for the effective discharge of the commission's regulatory responsibilities under this Act, except that if the commission issues such an order, the books, accounts, memoranda, contracts, and records obtained by the commission are confidential and not subject to disclosure under Chapter 552, Government Code.

(q) After the hearing, the commission shall determine whether:

(1) the utility's proposed final plan was developed in accordance with the preliminary plan and commission rules;

(2) the resource solicitations, evaluations, selections, and rejections were conducted in accordance with the criteria included in the preliminary plan;

(3) the utility's proposed final plan is cost-effective;

(4) the final plan is equitable among customer classes and provides demand-side programs to each customer class, including tenants and low income ratepayers;

(5) the commission should certify the contracts and any utility bid submitted under Subsection (m) of this section that resulted from the solicitations; and

(6) the commission should grant a requested certificate of convenience and necessity for a utility-owned resource addition.

(r)(1) In determining whether to certify a supply-side or demand-side contract that results from the solicitations, the commission shall consider the reliability, financial condition, and safety of that resource contract and whether the solicitation, evaluation, and selection of that resource contract was conducted in accordance with the criteria included in the preliminary plan. The commission shall not certify contracts for new purchases of power by a utility unless the utility has determined, after giving consideration to consistently applied regional or national reliability standards, guidelines, or criteria, that the contract would not unreasonably impair the continued reliability of electric systems affected by the purchase, and the purchase can reasonably be expected to produce benefits to customers of the purchasing utility. Commission certification of a resource contract does not negate the necessity of the resource to comply with all applicable environmental and siting regulations. In addition, if the contract is with a utility affiliate, the commission shall determine whether the utility treated and considered the affiliate's bid in the same manner it treated and considered other bids intended to meet the same resource needs and shall further determine, in connection with such purchase, whether:
(A) the transaction will benefit consumers; 
(B) the transaction violates any state law, including least cost planning; 
(C) the transaction provides the utility affiliate any unfair competitive advantage by virtue of its affiliation or association with the utility; 
(D) the transaction is in the public interest; and 
(E) the commission has sufficient regulatory authority, resources, and access to the books and records of the utility and its affiliate to make these determinations.

(2) In setting a public utility's rates for a period during which a certified contract is effective, the regulatory authority shall consider payments made under the contract to be reasonable and necessary operating expenses of the public utility. The regulatory authority may provide for monthly recovery of the approved costs of the contract as those costs are incurred, including the allowed mark-up determined by the commission.

(s) In determining whether to grant a requested certificate of convenience and necessity, the commission shall consider the effect of the granting of a certificate on the recipient of the certificate and on any public utility of the same kind already serving the proximate area. The commission shall also consider other factors such as community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the probable improvement of service or lowering of cost to consumers in that area if the certificate is granted. The commission shall grant the certificate as part of the approval of the final plan if it finds that: 

(1) the proposed addition is necessary under the final plan; 
(2) the proposed addition is the best and most economical choice of technology for that service area; and 
(3) cost-effective conservation and other cost-effective alternative energy sources cannot reasonably meet the need.

(i) Not later than the 180th day after the date the utility files the proposed final plan, the commission shall issue a final order on the plan. The commission shall approve the proposed final plan, modify the proposed final plan, or, if necessary, remand the proposed final plan for additional proceedings.

(u) The commission shall adopt rules allowing a utility to add, consistent with the utility's last approved integrated resource planning goals, new or incremental resources outside the solicitation process, including resources listed in Subsection (x) of this section.

(v) In addition to its other authority and responsibility under this section, the commission shall establish rules and guidelines that will promote the development of renewable energy technologies consistent with the guidelines of the integrated resource planning process.

(w) In carrying out its duties related to the integrated resource planning process, the commission may: 

(1) allow timely recovery of reasonable costs of conservation, load management, and purchased power, notwithstanding Section 2.212(g)(1) of this Act;
(2) authorize additional incentives for conservation, load management, purchased power, and renewable resources; and

(3) review the state's transmission system to determine and make recommendations to public utilities on the need to build new power lines, upgrade power lines, and make other improvements and additions as necessary.

(x) Consistent with the utility's last approved integrated resource planning goals, if any, the utility, including a nongenerating utility, may add new or incremental resources outside the solicitation process such as:

(1) contract renegotiation for existing capacity from an electric cooperative or nonaffiliated power generating facilities;

(2) electric cooperative or nonaffiliated demand-side management programs or renewable resources;

(3) capacity purchases with terms of two years or less from an electric cooperative or nonaffiliated power suppliers or capacity purchases necessary to satisfy unanticipated emergency conditions;

(4) the exercise of an option in a purchased power contract with an electric cooperative or nonaffiliated supplier; and

(5) renewable distributed resources, located at or near the point of consumption, if they are less costly than transmission extensions or upgrades.

(y) The addition of new or incremental resources by a utility under Subsection (x) of this section does not require an amendment to the utility's integrated resource plan.

(z)(1) If a qualifying facility submits a bid under this section, regardless of whether that bid is accepted or rejected, and only with respect to the capacity need for which the bid has been submitted, the submission of the bid:

(A) constitutes a waiver by the qualifying facility of any rights it may otherwise have under law to sell capacity to the utility;

(B) represents the qualifying facility's agreement to negotiate a rate for purchase of capacity and terms and conditions relating to any purchase of capacity by the utility that differ from the rate or terms and conditions that would otherwise be required by 18 CFR Chapter I, Subchapter K, Part 292, Subpart C; and

(C) constitutes a waiver by the qualifying facility of its right to the rate, terms, or conditions for purchases of capacity by the utility that might otherwise be required by that subpart.

(2) For the purpose of determining a utility's avoided capacity costs under 18 CFR Chapter I, Subchapter K, Part 292, Subpart C, on submitting a preliminary integrated resource plan to the commission under Section 2.05 of this Act, the utility's avoided capacity costs shall be deemed to be $0 and shall remain $0, with respect to any capacity needs shown in such preliminary integrated resource plan or final integrated resource plan that are to be satisfied by resources approved in the utility's final integrated resource plan.

(3) Nothing in this subsection shall affect the validity of any contract entered into between a qualifying facility and an electric utility for any purchase.
(aa) In this section, "utility" includes a river authority subject to Section 2.0012 of this Act with respect to the area served by the river authority on January 1, 1975.

(bb) Nongenerating utilities not planning to construct generating resources are not required to submit an integrated resource plan to the commission. If such a utility seeks to purchase more than 25 percent of its peak demand or more than 70 megawatts from a wholesale power supplier other than its existing power supplier, the utility shall conduct a solicitation for resources. However, no solicitation is required for purchases from an existing power supplier, and new or incremental resources may be added outside the solicitation process as provided in Subsection (x) of this section. If requested by such a utility, the commission may review the reasonableness of any contract for resources resulting from the solicitation. On a finding by the commission that such a contract is reasonable, the commission shall certify the contract. The commission shall make its determination within 90 days after the date the proposed contract is submitted. Nothing in this subsection is intended to alter or amend existing wholesale power supply contracts.

(cc) To the extent that the commission authorizes utilities to recover costs of demand-side management programs, conservation, load management, or purchased power through various cost recovery factors, the commission shall make a final reconciliation of the costs recovered through those cost recovery factors. The commission shall adopt rules regarding when the reconciliations will occur for each of the cost recovery factors, what type of information utilities need to file in support of the reconciliation, and other matters necessary to perform the reconciliation. The reconciliation shall (1) review the reasonableness of the utility's administration of the contracts and programs whose costs are being reconciled and (2) reconcile the revenue collected under each cost recovery factor and the costs that the utility incurred on purchased power, demand-side management, conservation, or load management during the reconciliation period.

(dd) To provide for the orderly transition to an integrated resource planning process and to avoid delays in the construction of resources necessary to provide electric service, an integrated resource plan shall not be required prior to the issuance of a certificate of convenience and necessity for the construction of generating facilities if:

1. the commission has approved the utility's notice of intent prior to the effective date of this section;

2. the utility has conducted a solicitation for resources to meet the need identified in the utility's notice of intent in accordance with commission rules then in effect; and

3. the utility has submitted to the commission the results of the solicitation and an application for certification of facilities to meet the need identified in the utility's notice of intent. A certificate of convenience and necessity shall be granted by the commission if the facilities are needed to meet future demand, the facilities are the best and most economical choice of technology for the service area, and
cost-effective conservation and cost-effective alternative energy sources cannot reasonably meet the need.

To the extent that the public utility is required by the commission to reimburse a municipality for expenses the municipality incurred for its participation in a proceeding under this section, the commission shall, as part of its determination approving the public utility's integrated resource plan, authorize a surcharge to be included in the public utility's rates to recover the municipality's expenses for participating in the integrated resource plan proceeding before the public utility's next preliminary integrated resource plan is filed. [ELECTRICAL FORECAST. (a) The commission shall develop a long-term statewide electrical energy forecast which shall be sent to the governor biennially. The forecast will include an assessment of how alternative energy sources, conservation, and load management will meet the state's electricity needs.

(b) Every generating electric utility in the state shall prepare and transmit to the commission every two years a report specifying at least a 10-year forecast for assessments of load and resources for its service area. The report shall include a list of facilities which will be required to supply electric power during the forecast periods. The report shall be in a form prescribed by the commission. The report shall include:

(1) a tabulation of estimated peak load, resources, and reserve margins for each year during the forecast or assessment period;
(2) a list of existing electric generating plants in service with a description of planned and potential generating capacity at existing sites;
(3) a list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of such facilities, and the anticipated types of fuel to be utilized in the proposed facilities, including an estimation of shutdown costs and disposal of spent fuel for nuclear power plants;

(c) Every generating electric utility in the state shall prepare and transmit to the commission every two years a report specifying at least a 10-year forecast for assessments of load and resources for its service area. The report shall include a list of facilities which will be required to supply electric power during the forecast periods. The report shall be in a form prescribed by the commission. The report shall include:

(a) generating or transmission efficiency;
(b) importation of power;
(c) interstate or interregional pooling;
(d) other improvements in efficiencies of operation; and
(e) conservation measures;

(f) an estimation of the mix and type of fuel resources for the forecast or assessment period;

(g) an annual load-duration curve and a forecast of anticipated peak loads for the forecast or assessment period for the residential, commercial, industrial, and such other major demand sectors in the service area of the electric utility as the commission shall determine; and

(h) a description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the basis for such projections.

(c) The commission shall establish and every electric utility shall utilize a reporting methodology for preparation of the forecasts of future load and resources.
(d) The commission shall review and evaluate the electric utilities' forecast of load and resources and any public comment on population growth estimates prepared by the Bureau of Business Research, The University of Texas at Austin.

(e) Within 12 months after the receipt of the reports required by this section, the commission shall hold a public hearing and subsequently issue a final report to the governor and notify every electric utility of the commission's electric forecast for that utility. The commission shall consider its electric forecast in all certification proceedings covering new generation plants.

SECTION 2.04. Section 2.052, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 2.052. ENCOURAGEMENT OF ECONOMICAL PRODUCTION. (a) The commission shall make and enforce rules to encourage the economical production of electric energy by qualifying cogenerators and qualifying small power producers.

(b) On application by a public utility, the regulatory authority may approve retail tariffs or contracts containing charges that are less than rates approved by the regulatory authority but equal to or greater than the utility's marginal cost. The charges must be in accordance with the principles of this Act and may not be unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive.

(c) The methodology for calculating the marginal cost of the electric utility shall consist of energy and capacity components. The energy component shall include variable operation and maintenance expense and marginal fuel or the energy component of purchased power. The capacity component included shall be based on the annual economic value of deferring, accelerating, or avoiding the next increment of any needed capacity, whether such capacity is purchased or built. The commission shall ensure that the methodology for determining marginal cost is consistently applied among utilities but may recognize in any case the individual load and resource requirements of the utility.

SECTION 2.05. Subtitle B, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.053 to read as follows:

Sec. 2.053. EXEMPT WHOLESALE GENERATORS AND POWER MARKETERS. (a) An exempt wholesale generator or power marketer may sell electric energy only at wholesale.

(b) The commission has the following jurisdiction over exempt wholesale generators and power marketers that sell electric energy in this state:

(1) to require registration as provided by Subsection (c) of this section; and

(2) to require the filing of reports the commission prescribes by rule.

(c) Each exempt wholesale generator and power marketer shall, within 30 days after the date it becomes subject to this section, register with the
commission or provide proof that it has registered with the Federal Energy
Regulatory Commission or been authorized by the Federal Energy
Regulatory Commission to sell electric energy at market-based rates.
Registration may be accomplished by filing with the commission a
description of the location of any facility used to provide service, the type
of service provided, a copy of any information filed with the Federal
Energy Regulatory Commission in connection with registration with that
commission, and other information the commission prescribes by rule.

SECTION 2.06. Subtitle B, Title II, Public Utility Regulatory Act of
1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended by adding Section 2.054 to read as follows:

Sec. 2.054. EXEMPT WHOLESALE GENERATOR AND POWER
MARKETER AFFILIATES. (a) An affiliate of a public utility may be an
exempt wholesale generator or power marketer and may sell electric energy
to its affiliated public utility in accordance with Section 2.051 of this Act
and other provisions of law governing wholesale sales of electric energy.
(b) If a rate or charge for or in connection with the construction of a
facility, or for electric energy produced by the construction of a facility,
or for electric energy produced by a facility other than any portion of a
rate or charge which represents recovery of the cost of a wholesale rate
charge was in effect as of the date of enactment of this section, the
facility shall not be sold or transferred to an affiliate, or otherwise
considered an eligible facility as defined by federal law, provided that the
commission may, after notice and hearing, allow such facility to be sold
or transferred to an affiliate, or become an eligible facility only if such
sale or transfer will benefit ratepayers of the utility making the sale or
transfer, is in the public interest, and otherwise complies with state law.
(c) Any transfer of assets from a utility to an affiliated exempt
wholesale generator or power marketer shall be valued at the greater of net
book cost or fair market value. Any transfer of assets from an exempt
wholesale generator or power marketer to an affiliated public utility shall
be valued at the lesser of net book cost or fair market value. At the time
the transfer is approved, the commission shall order the utility to adjust
its rates so that its tariffs reflect benefits from the proceeds of the sale and
exclude any costs associated with the transferred facility.

SECTION 2.07. Subtitle B, Title II, Public Utility Regulatory Act of
1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular
Session, 1995, is amended by adding Section 2.056 to read as follows:

Sec. 2.056. TRANSMISSION SERVICE. (a) The commission may
require a utility, including a municipally owned utility, to provide
transmission service at wholesale to another utility, a qualifying facility,
an exempt wholesale generator, or a power marketer and may determine
whether the terms and conditions for the transmission service are
reasonable. The commission may require transmission service at
wholesale, including construction or enlargement of facilities, in a
proceeding not related to approval of an integrated resource plan. The
commission may not issue a decision or rule relating to transmission
service that is contrary to an applicable decision, rule, or policy statement
of a federal regulatory agency having jurisdiction.
(b) The commission, with the advice and consent of the governor, shall appoint a five-person interstate connection committee to investigate the most economical, reliable, and efficient means to synchronously interconnect the alternating current electric facilities of the electric facilities of electric utilities within the Electric Reliability Council of Texas reliability area to the alternating current electric facilities of the electric facilities of electric utilities within the Southwest Power Pool reliability area. The committee shall report an estimate of the cost and benefit to effect the interconnection, an estimate of the time to construct the interconnecting facilities, and the service territory of the utilities in which those facilities will be located. The committee shall submit its report to the legislature by September 1, 1997, at which time the committee shall be dissolved.

SECTION 2.08. Subtitle B, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.057 to read as follows:

Sec. 2.057. WHOLESALE COMPETITION. (a) A public utility that owns or operates transmission facilities shall provide wholesale transmission service at rates, terms of access, and conditions that are comparable to the rates, terms of access, and conditions of the utility's use of its system. The commission shall ensure that utilities provide nondiscriminatory access to transmission service for qualifying facilities, exempt wholesale generators, power marketers, and public utilities. The commission shall adopt rules within 180 days of the effective date of this section relating to wholesale transmission service, rates, and access. The rules shall be consistent with the standards in this section, shall not be contrary to federal law, including any applicable policy statement, decision, or rule of a federal regulatory agency having jurisdiction, and shall require transmission services that are not less than the transmission services the Federal Energy Regulatory Commission may require in similar circumstances. The rules shall also provide that all ancillary services associated with a utility's discounted wholesale sales shall be provided by the utility at the same prices and under the same terms and conditions as such services are provided to third persons, and all ancillary services provided by the utility and associated with its discounted wholesale sales also be provided to third persons upon request. All public utilities that own or operate transmission facilities shall file tariffs implementing such rules within 60 days after the commission has adopted transmission pricing and access rules pursuant to this section unless the terms and conditions for access and pricing are included in the tariff of another utility. Such tariffs shall be filed with the appropriate state or federal regulatory agency having jurisdiction over the transmission service of the entity filing the tariff.

(b) The commission shall adopt rules relating to the registration and reporting requirements of qualifying facilities, exempt wholesale generators, and power marketers.

(c) To the extent a utility provides transmission of electric energy at the request of a third party, the commission shall ensure that the costs of
the transmission are not borne by the utility's other customers by requiring the utility to recover from the entity for which the transmission is provided all reasonable costs incurred by the utility in providing transmission services necessary for the transaction.

(d) For the purposes of administering these rules, the commission may require that parties to a dispute over the prices, terms, and conditions of wholesale transmission service engage in a nonbinding alternative dispute resolution process before seeking a resolution of a dispute from the commission.

(e) The commission shall submit a report to the 75th Legislature on methods or procedures for quantifying the magnitude of stranded investment, procedures for allocating costs, and the acceptable methods of recovering stranded costs.

(f) Affiliates of public utilities, exempt wholesale generators, qualifying facilities, and all other providers of generation may compete for the business of selling power. In accordance with the applicable provisions of this Act, a public utility may purchase power from an affiliate. A public utility may not grant undue preference to any person in connection with the utility's purchase or sale of electric energy at wholesale or other utility services.

(g) Notwithstanding any other provision in this Act, the commission may entertain proposals for, and from such proposals adopt, one pilot program to require public utilities, on order of the commission, to provide transmission service for transactions between end users of electricity and qualifying facilities, exempt wholesale generators, power marketers, or public utilities. The transmission service shall be for the purpose of permitting end users of electricity to acquire new capacity and energy resources, and to replace existing electricity purchases, through direct purchases from qualifying facilities, exempt wholesale generators, power marketers, or public utilities. The commission shall ensure, to the maximum extent feasible, that all classes of customers, including residential, commercial, and other customer classes, are provided a full opportunity to participate in the pilot program. The pilot program shall be designed to prevent the shifting of capacity costs that are currently paid by program participants to other ratepayers of the transmitting utility and shall ensure that program participants make their appropriate capacity contribution to utility revenues, as determined by the commission. Notwithstanding any other provision of this Act, the commission may authorize a qualifying facility, exempt wholesale generator, power marketer, or public utility to participate in this pilot program. The pilot program shall remain in effect for an initial period of six years from the date the commission issues a final order initiating the program. Not later than January 15, 2001, the commission shall evaluate the program and report to the legislature on its results. During the pilot project under this subsection, the regulatory authority may not require a public utility to wheel or transmit electricity over that public utility's facilities from another entity to an ultimate consumer of electricity in the utility's certificated service area, including wheeling or transmitting electricity to another location of that other entity, if the entity is an ultimate consumer of electricity. This subsection expires January 15, 2001.
(h) For the purposes of this section, the term "public utility" shall include municipally owned utilities.

SECTION 2.09. Section 2.105, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subsection (c) to read as follows:

(c) Not later than the 31st day before the date a utility files a statement of intent under Section 2.212(a) of this Act, the utility shall provide to each municipality having original jurisdiction notice of intent to file the statement. Not later than the 30th day after the date a municipality receives notice of intent to file a statement, the municipality may request that the utility file with the municipality a statement of intent in accordance with Section 2.212(a) of this Act. If requested, the utility shall file the statement of intent with the municipality at the same time the statement is filed with the commission.

SECTION 2.10. Subsection (g), Section 2.108, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(g) The commission shall hear such appeal de novo based on the test year presented to the municipality and by its final order shall fix such rates as the municipality should have fixed in the ordinance from which the appeal was taken. In the event that the commission fails to enter its final order: (1) for proceedings involving the rates of a municipally owned utility, within 185 days from the date on which the appeal is perfected or on which the utility files a rate application as prescribed by Subsection (c) of this section; or (2) for proceedings in which similar relief has also been concurrently sought from the commission under its original jurisdiction, within 120 days from the date such appeal is perfected or the date upon which final action must be taken in the similar proceedings so filed with the commission whichever shall last occur; or (3) in all other proceedings, within 185 days from the date such appeal is perfected, the schedule of rates proposed by the utility shall be deemed to have been approved by the commission and effective upon the expiration of said applicable period. Any rates, whether temporary or permanent, set by the commission shall be prospective and observed from and after the applicable order of the commission, except interim rate orders necessary to effect uniform system-wide rates or to provide the utility the opportunity to avoid confiscation during the period beginning on the date of filing of a petition for review with the commission and ending on the date of a final order setting rates. The commission shall order interim rates on a prima facie showing by the utility that it has experienced confiscation during that period. For purposes of this subsection, confiscation includes negative cash flow experienced by the utility at any time during the pendency of a rate case proceeding. The utility concerned shall refund or credit against future bills all sums collected during the period of interim rates in excess of the rate finally ordered plus interest at the current rate as finally determined by the commission.

SECTION 2.11. Subtitle D, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.1511 to read as follows:
Sec. 2.1511. MARK-UP. Any cost recovery factor established for recovery of purchased power costs may include the costs incurred by the utility for the purchase of capacity and energy, together with a mark-up added to the costs or other mechanism, as determined by the commission, to reasonably compensate the utility for financial risks, if any, to the utility associated with purchased power obligations and the value added by the utility in making the purchased power available to its customers. The mark-ups and cost recovery factors, if allowed, may be those that are necessary to encourage the utility to include economical purchased power as part of its energy and capacity resource supply plan.

SECTION 2.12. Section 2.152, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subsection (e) to read as follows:

(e) Reasonable costs of participating in a proceeding under this Act may be allowed, not to exceed the amount approved by the regulatory authority.

SECTION 2.13. Subsection (b), Section 2.154, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) Every public utility shall file with, and as a part of such schedules, all rules and regulations relating to or affecting the rates, public utility service, product, or commodity furnished by such utility. The commission shall treat customer names and addresses, prices, individual customer contracts, and expected load and usage data as highly sensitive trade secrets, and such information shall not be subject to disclosure under the open records law, Chapter 552, Government Code.

SECTION 2.14. Subtitle E, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.2011 to read as follows:

Sec. 2.2011. ELECTRIC COOPERATIVE EXEMPTION. (a) An electric cooperative corporation that provides retail electric utility service at distribution voltage is exempt from rate regulation if a majority of the members voting in an election on the deregulation of the electric cooperative vote to approve the exemption and the electric cooperative sends notice of the action to each applicable regulatory authority. An electric cooperative that wants to hold an election under this section shall send a ballot by mail to each electric cooperative member. The electric cooperative may include the ballot in a monthly billing. The ballot shall provide for voting for or against rate deregulation of the electric cooperative. If the proposition is approved, the electric cooperative shall send each ballot to the commission not later than the 10th day after the date the electric cooperative counts the ballots. Based on the ballots received, the commission shall administratively certify that the electric cooperative is or is not deregulated for rate-making purposes. An electric cooperative may not hold another election on the issue of being exempt from rate regulation before the first anniversary of the most recent election on the issue. Subsections (b) through (n) of this section apply to an electric cooperative that has elected to be exempt from rate regulation.
(b) No regulatory authority shall fix and regulate the rates of an electric cooperative that has made an election under this section to be exempt from rate regulation except as provided for the commission in Subsections (g) and (i) of this section. Notwithstanding Section 2.101(a) of this Act, the commission has exclusive original jurisdiction in all of the electric cooperative's service area in a proceeding initiated under Subsection (g) or (i) of this section.

(c) An electric cooperative may change its rates by:
   (1) adopting a resolution approving the proposed change;
   (2) mailing notice of the proposed change to:
       (A) the commission;
       (B) each affected municipality;
       (C) each affected customer, which notice may be included in a monthly billing; and
       (D) each electric utility providing retail service in the electric cooperative's service area or in the adjoining service area; and
   (3) making available at each of the electric cooperative's business offices for review by all interested persons a cost-of-service study that:
       (A) is not more than five years old at the time the electric cooperative adopts rates under this subsection;
       (B) bears the certification of a professional engineer or certified public accountant.

(d)(1) The notice required by Subsection (c) of this section must contain the following information:
   (A) the increase or decrease in total operating revenues over actual test year revenues or over test year revenues adjusted to annualize the recovery of changes in the cost of purchased electricity, stated both as a dollar amount and as a percentage;
   (B) the classes of utility customers affected and the creation and application of any new rate classes;
   (C) the increase or decrease for each class stated as a percentage of actual test year revenues for the class or of test year revenues for the class adjusted to annualize the recovery of changes in the cost of purchased electricity;
   (D) a statement that the commission may review the rate change if the commission receives a petition within 60 days in accordance with Subsection (g) of this section;
   (E) the address and telephone number of the commission;
   (F) a statement that a customer opposed to the rate change should notify the electric cooperative in writing of the person's opposition and should provide a return address; and
   (G) a statement that members may review a copy of any written opposition the electric cooperative receives.

(2) The electric cooperative may not be required to include additional information in the notice.

(e) The electric cooperative shall make available for review by a member of the cooperative at each of the electric cooperative's business offices a cost-of-service study that:
   (1) is not more than five years old at the time the electric cooperative adopts rates under this subsection; and
   (2) bears the certification of a professional engineer or certified public accountant.
of any written opposition to the rate change the electric cooperative receives.

(f) The electric cooperative shall file tariffs with the commission. If the electric cooperative complies with Subsection (c) of this section, the commission shall approve the tariffs not later than the 10th day after the 60-day period prescribed by Subsection (g) of this section expires, unless a review is required under Subsection (g) or (i) of this section. If the tariffs are approved or if a review is not required and the commission fails to act during the period prescribed by this subsection, the change in rates takes effect on the 70th day after the date the electric cooperative first complies with all requirements of Subsection (c) of this section or on a later date determined by the electric cooperative. Except as provided by Subsections (g) and (i) of this section, the rates of the electric cooperative are not subject to review.

(g) The commission shall review a change in rates under this section if, not later than the 60th day after the date the electric cooperative first complies with all requirements of Subsection (c) of this section, the commission receives a petition requesting review signed by:

(1) at least 10 percent of the members of the electric cooperative;
(2) members of the electric cooperative who purchased more than 50 percent of the electric cooperative’s annual energy sales to a customer class in the test year, provided that the petition includes a certification of the purchases; or
(3) an executive officer of an affected electric utility, provided that the petition prescribes the particular class or classes for which a review is requested.

(h) When a person files a petition under Subsection (g) of this section, the person shall notify the electric cooperative in writing of the action.

(i) The commission may on its own motion review the rates of an electric cooperative if the commission first finds that there is good cause to believe that the electric cooperative is earning more than a reasonable return on overall system revenues or on revenue from a rate class.

(j) The commission shall conduct a review under Subsection (g)(1) or (2) of this section or under Subsection (i) of this section in accordance with Section 2.212 of this Act and the other applicable rate-setting principles of this subtitle, except that:

(1) the period for review does not begin until the electric cooperative files a rate-filing package as required by commission rules;
(2) the proposed change may not be suspended during the pendency of the review; however, the electric cooperative shall refund or credit against future bills all sums collected in excess of the rate finally set by the commission, if the commission so orders; and
(3) the electric cooperative shall observe the rates set by the commission until the rates are changed as provided by this section or by other sections of this Act.

(k) For a review conducted under Subsection (g)(3) of this section, the electric cooperative shall file with the commission a copy of the
cost-of-service study required under Subsection (c)(3) of this section not later than the 10th day after the date the electric cooperative receives from the affected electric utility notice that a petition has been filed. The commission shall determine for each class for which review has been requested the annual cost of providing service to the class, as stated in the electric cooperative's cost-of-service study, and the revenues for the class that would be produced by multiplying the rate set by the electric cooperative by the annual billing units for the class as stated in the cost-of-service study. If the electric cooperative proposes a rate class solely for a new customer, the electric cooperative shall estimate the reasonable annual cost of providing service to the class, and the electric cooperative shall base class revenues on reasonable estimates of billing units.

(i) The rate for each class for which review has been requested under Subsection (g)(3) of this section is suspended during the pendency of the review. The commission shall dismiss the petition and approve the rates if the revenues for the class are equal to or greater than the cost of providing service to the class. The commission shall disapprove the rate if the revenues for the class are less than the cost of providing service to the class; however, this action does not affect reconsideration of the rate as a part of any subsequent rate-making proceeding. The rate adopted by the electric cooperative is deemed approved and may be placed into effect if the commission fails to make its final determination administratively not later than the 45th day after the date the electric cooperative files its cost-of-service study.

(m) Except as provided by Subsection (a) of this section, the members of an electric cooperative may at any time revoke the electric cooperative's election to be exempt from rate regulation or elect to again be exempt from rate regulation by majority vote of the members voting.

(n) This section does not affect the application of other provisions of this Act not directly related to rates or to the authority of the commission to require an electric cooperative to file reports required under this Act or rules adopted by the commission. A service fee or a service rule or regulation set by the electric cooperative under this section must comply with commission rules applicable to all electric utilities. The commission may determine whether an electric cooperative has unlawfully charged, collected, or received a rate for electric utility service.

(o) A single customer may seek a review of the rates of an electric cooperative pursuant to Section 2.211 of this Act if the customer consumes more than 250,000,000 kwh and purchases more than 10 percent of the total energy sales or more than 7.5 percent of the revenues of the electric cooperative in any period of 12 consecutive months within the 36 months preceding the date on which that customer initiates a proceeding under Section 2.211 of this Act. A right conferred by this subsection is in addition to rights that the customer has under Subsection (g) of this section and not in limitation or in lieu of those rights.

SECTION 2.15. Subsection (b), Section 2.203, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:
(b) In fixing a reasonable return on invested capital, the regulatory authority shall consider, in addition to other applicable factors, efforts to comply with the utility's most recently approved individual integrated resource plan, the efforts and achievements of such utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management.

SECTION 2.16. Subsection (b), Section 2.208, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) Payments to affiliated interests for costs of any services or any property, right, or thing or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority shall find such payment to be reasonable and necessary for each item or class of items as determined by the commission, provided that nothing herein requires such findings to be made prior to the inclusion of such payments in the utility's charges to consumers so long as there is a mechanism for making such charges subject to refund pending the making of such findings and provided further that no such findings are required where such charges have been incurred in connection with a service contracted by the utility as part of the utility's integrated resource plan approved pursuant to Section 2.051 of this Act. [Any such finding shall include specific findings of the reasonableness and necessity of each item or class of items allowed and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or class of items or to unaffiliated persons or corporations. The price paid by gas utilities to affiliated interests for natural gas from Outer Continental Shelf lands shall be subject to a rebuttable presumption that such price is reasonable if the price paid does not exceed the price permitted by federal regulation if such gas is regulated by any federal agency or if not regulated by a federal agency does not exceed the price paid by nonaffiliated parties for natural gas from Outer Continental Shelf lands. The burden of establishing that such a price paid is not reasonable shall be on any party challenging the reasonableness of such price.]

SECTION 2.17. Section 2.211, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Not later than the 120th day after the date the regulatory authority notifies the utility that the regulatory authority has decided to proceed with an inquiry under this section relating to the rates of the utility, the utility shall file a rate-filing package with the regulatory authority. The regulatory authority may grant an extension of the 120-day period or waive the rate-filing package requirement on agreement of the parties. The regulatory authority shall make a final determination concerning the matter not later than the 185th day after the date the utility files the rate-filing package. However, the 185-day period is extended two days for each one day of actual hearing on the merits of the case that exceeds 15 days.
(d) At any time after an initial complaint is filed under this section, the regulatory authority may issue an interim order fixing temporary rates for the utility that will continue until a final determination on the matter is made. On issuance of a final order, the regulatory authority may require the utility to refund to customers or to credit against future bills all sums collected during the period in which those temporary rates were in effect that are in excess of the rate finally ordered, plus interest at the current rate as finally determined by the commission or, if the amounts collected during the period in which the temporary rates were in effect are less than the amounts that would have been collected under the rate finally ordered, the regulatory authority shall authorize the utility to surcharge bills to recover the difference between those amounts, plus interest on the amount of the difference at the current rate as finally determined by the commission.

(e) If the 185-day period has been extended as provided by Subsection (c) of this section and the regulatory authority has not issued a final order or fixed temporary rates on or before the 185th day, the rates charged by the utility on that 185th day automatically become temporary rates. On issuance of a final order, the regulatory authority shall require the utility to refund to customers or to credit against future bills all sums collected during the period in which those temporary rates were in effect that are in excess of the rate finally ordered, plus interest at the current rate as finally determined by the commission or, if the amounts collected during the period in which the temporary rates were in effect are less than the amounts that would have been collected under the rate finally ordered, the regulatory authority shall authorize the utility to surcharge bills to recover the difference between those amounts, plus interest on the amount of the difference at the current rate as finally determined by the commission.

SECTION 2.18. Subsections (a), (c), and (g), Section 2.212, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(a) Except as provided by Section 2.105(c) of this Act, a [A] utility may not make changes in its rates except by filing a statement of intent with the regulatory authority having original jurisdiction at least 35 days prior to the effective date of the proposed change. The statement of intent shall include proposed revisions of tariffs and schedules and a statement specifying in detail each proposed change, the effect the proposed change is expected to have on the revenues of the company, the classes and numbers of utility consumers affected, and such other information as may be required by the regulatory authority's rules and regulations. A copy of the statement of intent shall be mailed or delivered to the appropriate officer of each affected municipality, and notice shall be given by publication in conspicuous form and place of a notice to the public of such proposed change once in each week for four successive weeks prior to the effective date of the proposed change in a newspaper having general circulation in each county containing territory affected by the proposed change and by mail to such other affected persons as may be required by
the regulatory authority's rules and regulations. The regulatory authority may waive the publication of notice requirement prescribed by this subsection in a proceeding that involves a rate reduction for all affected ratepayers only. The applicant shall give notice of the proposed rate change by mail to all affected utility customers. The regulatory authority by rule shall also define other proceedings for which the publication of notice requirement prescribed by this subsection may be waived on a showing of good cause, provided that a waiver may not be granted in any proceeding involving a rate increase to any class or category of ratepayer.

(e) If the 150-day period has been extended, as provided for in Subsection (d) of this section, and the commission fails to make its final determination of rates within 150 days from the date that the proposed change otherwise would have gone into effect, the utility concerned may put a changed rate, not to exceed the proposed rate, into effect throughout all areas in which the utility sought to change its rates, including the areas over which the commission is exercising its appellate and its original jurisdiction, on the filing with the commission [regulatory authority] of a bond payable to the commission [regulatory authority] in an amount and with sureties approved by the commission [regulatory authority] conditioned upon refund and in a form approved by the commission [regulatory authority]. The utility concerned shall refund or credit against future bills all sums collected during the period of suspension in excess of the rate finally ordered plus interest at the current rate as finally determined by the commission [regulatory authority].

(g)(1) Except as permitted by Section 2.051 of this Act, a [A] rate or tariff set by the commission may not authorize a utility to automatically adjust and pass through to its customers changes in fuel or other costs of the utility.

(2)(A) Subdivision (1) of this subsection does not prohibit the commission from reviewing and providing for adjustments of a utility's fuel factor. The commission by rule shall implement procedures that provide for the timely adjustment of a utility's fuel factor, with or without a hearing. The procedures shall provide that the findings required by Section 2.208(b) of this Act regarding fuel transactions with affiliated interests are made in a fuel reconciliation proceeding or in a rate case filed under Subsection (a) of this section or under Section 2.211 of this Act. The procedures shall provide an affected party notice and the opportunity to request a hearing before the commission. However, the commission may adjust a utility's fuel factor without a hearing if the commission determines that a hearing is not necessary. If the commission holds a hearing, the [Any revision of a utility's billings to its customers to allow for the recovery of additional fuel costs may be made only upon a public hearing and order of the commission.]

[(B) The] commission may consider any evidence that is appropriate and in the public interest at such hearing. The commission shall render a timely decision approving, disapproving, or modifying the adjustment to the utility's fuel factor.

(B) The commission by rule shall provide for the reconciliation of a utility's fuel costs on a timely basis.
(C) A proceeding under this subsection may not be considered a rate case under this section.

(3) [The commission may, after a hearing, grant interim relief for fuel cost increases that are the result of unusual and emergency circumstances or conditions.]

[(4)](A) This subsection applies only to increases or decreases in the cost of purchased electricity which have been:
   (i) accepted by a federal regulatory authority; or
   (ii) approved after a hearing by the commission.

   (B) The commission may utilize any appropriate method to provide for the adjustment of the cost of purchased electricity upon such terms and conditions as the commission may determine. Such purchased electricity costs may be recovered concurrently with the effective date of the changed costs to the purchasing utility or as soon thereafter as is reasonably practical.

   (C) The commission may also provide for a mechanism to allow any public utility that has a noncontiguous geographical service area, and that purchases power for resale for that noncontiguous service area from public utilities that are not members of the Electric Reliability Council of Texas, to recover purchased power cost for that area in a manner that reflects the purchased power cost for that specific geographical noncontiguous area. The commission may not, however, require such a mechanism for any electric cooperative corporation unless requested by the electric cooperative corporation.

SECTION 2.19. Section 2.214, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 2.214. UNREASONABLE PREFERENCE OR PREJUDICE AS TO RATES OR SERVICES. A public utility may not, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage. A public utility may not establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service. Charges to individual customers for retail or wholesale electric service that are less than the rate approved by the regulatory authority shall not constitute an impermissible difference, preference, or advantage.

SECTION 2.20. Subtitle E, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.2141 to read as follows:

Sec. 2.2141. DISCOUNTED RATES FOR CERTAIN STATE INSTITUTIONS OF HIGHER EDUCATION. Notwithstanding any other provision of this Act, each public utility and municipally owned utility shall discount charges for electric service provided to any facility of any four-year state university, upper-level institution, or college. The discount shall be a 20 percent reduction of the utility's base rates that otherwise would be rendered under the applicable tariffed rate. However, if a 20 percent discount results in a reduction greater than one percent of the
public or municipally owned utility's total annual revenues or if the municipally owned utility, as of September 1, 1995, discounts base commercial rates for electric service provided to all four-year state universities or colleges in its service area by 20 percent or more, the utility shall be exempt from the provisions of this section. Each public utility shall file tariffs with the commission reflecting the discount within 30 days of the effective date of this section. Such initial tariff filing shall not be considered a rate change for purposes of Section 2.212 of this Act. This section does not apply to rates charged to a state institution of higher education by a municipally owned utility which provides a discounted rate to the state for electric services below rates in effect on January 1, 1995, and which discounted rates provide a greater financial discount to the state than is provided to the state institution of higher education through the discount provided by this section. An investor-owned public utility may not recover the assigned and allocated costs of serving a state university or college which receives a discount under this section from residential customers or any other customer class.

SECTION 2.21. Section 2.215, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(a) A public utility may not, directly or indirectly, by any device whatsoever or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by the utility than that prescribed in the schedule of rates of the public utility applicable thereto when filed in the manner provided in this Act, nor may any person knowingly receive or accept any service from a public utility for a compensation greater or less than that prescribed in the schedules provided that it is lawful for a utility to charge individual customers for retail or wholesale electric service less than the rate approved by the regulatory authority and for a person to pay such lesser charge if such lesser charge is in accordance with Section 2.052.

(c) Notwithstanding any other provision of this Act, if the commission has approved as of September 1, 1995, the establishment of a separate rate class for electric service for a university and has grouped public schools in a separate rate class, the commission shall include community colleges in the rate class with public school customers.

SECTION 2.22. Section 2.251, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 2.251. DEFINITION. For the purposes of this subtitle only, "retail public utility" means any person, corporation, municipality, political subdivision or agency, or cooperative corporation, now or hereafter operating, maintaining, or controlling in Texas facilities for providing retail public utility service, except that a qualifying cogenerator selling electric energy at retail to the sole purchaser of the cogenerator's thermal output pursuant to Section 2.052 of this Act shall not for that reason be considered a retail public utility.
SECTION 2.23. Subsections (d), (e), and (f), Section 2.255, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(d) This section does not apply to a certificate of convenience and necessity for an electric generating plant that is requested under Section 2.051 of this Act. The commission may grant a certificate of convenience and necessity for an electric generating plant only in accordance with Section 2.051 of this Act.

(e) (1) In addition to the requirements of this section, an electric utility applying for a certificate of convenience and necessity for a new generating plant must first file a notice of intent to file an application for certification:

(2) The notice of intent shall set out alternative methods considered to help meet the electrical needs, related electrical facilities, and the advantages and disadvantages of the alternatives. In addition, the notice shall indicate compatibility with the most recent long-term forecast provided in this Act.

(3) The commission shall conduct a hearing on the notice of intent to determine the appropriateness of the proposed generating plant as compared to the alternatives and shall issue a report on its findings. In conjunction with the issuance of the report, the commission shall render a decision approving or disapproving the notice. Such decision shall be rendered within 180 days from the date of filing the notice of intent.

(4) On approval of the notice of intent, a utility may apply for certification for a generating plant, site, and site facilities not later than 12 months before construction is to commence:

(2) The application for certification shall contain such information as the commission may require to justify the proposed generating plant, site, and site facilities and to allow a determination showing compatibility with the most recent forecast:

(3) Certificates of convenience and necessity shall be granted on a nondiscriminatory basis if the commission finds that the proposed new plant is required under the service area forecast, that it is the best and most economical choice of technology for that service area as compatible with the commission's forecast, and that conservation and alternative energy sources cannot meet the need.

(4) If the application for a certificate of convenience and necessity involves new transmission facilities, the commission shall approve or deny the application within one year after the date the application is filed. If the commission does not approve or deny the application before this deadline, any party may seek a writ of mandamus in a district court of Travis County to compel the commission to make a decision on the application.

SECTION 2.24. Section 2302.043, Government Code, is amended to read as follows:

Sec. 2302.043. ORDER OR RULING. (a) A commission order or ruling entered under this chapter is considered to have been entered or
adopted under the Public Utility Regulatory Act of 1995 [(Article 1446c, Vernon's Texas Civil Statutes)].

(b) A commission order or ruling entered under this chapter is enforced under Subtitle I, Title 1, [Sections 71 through 77 of the] Public Utility Regulatory Act of 1995 [(Article 1446c, Vernon's Texas Civil Statutes)].

SECTION 2.25. Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Vernon's Texas Civil Statutes), is amended by adding Section 4c to read as follows:

Sec. 4c. (a) An electric cooperative corporation may form a joint powers agency with one or more public entities and participate in an existing joint powers agency in which at least one public entity is a member and participant, as if the electric cooperative corporation were a public entity.

(b) Notwithstanding any state statute to the contrary, a joint powers agency formed under this section after the effective date of this section is subject to all provisions of the Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, and is under the jurisdiction of the Public Utility Commission of Texas as provided by that Act.

(c) A joint powers agency in which an electric cooperative corporation participates under this section is a governmental body subject to Chapter 551, Government Code.

(d) This section may not be construed to authorize or entitle an electric cooperative corporation to issue bonds or other securities that are exempt from taxation under federal law.

SECTION 2.26. Section 4A, Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4A. ADDITIONAL POWERS. Notwithstanding any other provision of this Act, a corporation has authority to generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish, and dispose of such electric energy to the following entities if the same are engaged in the generation, transmission, or distribution of electricity [for resale]:

(1) firms, associations, corporations[, except those who meet the criteria for a small power production facility and/or a cogeneration facility under Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA)];

(2) federal agency;

(3) state or political subdivision of a state [with an installed generation capacity in excess of 500-MW]; or

(4) a municipal power agency or political subdivision of a state which is a co-owner with such corporation of a jointly owned electric generation facility.

[A corporation may also sell, furnish, and dispose of the electric energy to a political subdivision of the state which is engaged in the
generation, transmission, or distribution of electricity for resale and to which the corporation was selling and furnishing electric energy on December 31, 1982:

The members-only requirement of Section 4(4) of this Act shall continue to apply to all sales by a corporation to other persons and entities.

SECTION 2.27. Section 171.079, Tax Code, is amended to read as follows:

Sec. 171.079. EXEMPTION—ELECTRIC COOPERATIVE CORPORATION. An electric cooperative corporation incorporated under the Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes) that is not a participant in a joint powers agency is exempted from the franchise tax.

SECTION 2.28. (a) The Public Utility Commission of Texas by rule shall adopt a statewide integrated resource planning process as required by Section 2.051, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, and as amended by this Act, not later than September 1, 1996.

(b) The changes in law made by this Act to Section 2.255, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, take effect September 1, 1996, and apply only to an application for a certificate of convenience and necessity filed on or after that date, except that, in the case of a utility for which the commission has not yet approved an individual integrated resource plan as of September 1, 1996, an application for a certificate of convenience and necessity is governed by the law in effect immediately preceding the effective date of this Act until the commission approves an integrated resource plan for the utility.

SECTION 2.29. The Public Utility Commission of Texas shall adopt the initial rules required by Section 2.057, Public Utility Regulatory Act of 1995, as added by this Act, not later than the 180th day after the effective date of this Act.

SECTION 2.30. An exempt wholesale generator or power marketer required to register under Subsection (c), Section 2.053, Public Utility Regulatory Act of 1995, as added by this Act, shall register not later than the 90th day after the effective date of this Act.

SECTION 2.31. Except as otherwise provided by this Act, this Act takes effect September 1, 1995.

SECTION 2.32. 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 according to its terms, and it is so enacted.

Floor Amendment No. 1

Amend C.S.S.B. 373 Section 2.03 on page 54, line 4 by inserting the following after the word "resources" and before the semicolon:
An appropriate and reliable mix of resources may include a portfolio of cost-effective sources of power, including, but not limited to, resources that are fueled and non-fueled, such as renewable resources and conservation measures, and a mixture of long term and short term contracts.

Floor Amendment No. 2

Amend C.S.S.B. 373 as follows:
1) In SECTION 2.03, page 65, line 13, insert the following between the words "process" and "the":
"and in setting rates for utilities which are not required to file an integrated resource plan"
2) In SECTION 2.21, page 99, beginning on line 21 strike the following words:
"less than the rate approved by the regulatory authority and for a person to pay such lesser charge if such lesser charge is"

Floor Amendment No. 3

Amend Sec. 2.08 of C.S.S.B. 373 by striking Sec. 2.057(g), page 78, beginning at line 21 through page 79, line 27, and renumbering the subsequent subsection accordingly.

Floor Amendment No. 4

Amend C.S.S.B. 373, SECTION 2.03 by striking Subsection 2.051(ee) and inserting the following new Subsection 2.051(ee):

(ec) To the extent that the public utility is required by the commission to reimburse a municipality for expenses the municipality incurred for its participation in a proceeding under this section, the commission shall, as part of its determination approving the public utility's integrated resource plan, authorize a surcharge to be included in the public utility's rates to recover the municipality's expenses for participating in the integrated resource plan proceeding before the public utility's next preliminary integrated resource plan is filed. The reasonable expenses of the public utility for planning, preparation and participation in such a proceeding may only be recovered after commission review conducted in accordance with the provisions of either Section 2.211 or 2.212 of this Act.

Amendment No. 5

Amend Section 2.16 of C.S.S.B. 373 (House committee report, first printing, page 90, line 20), to read as follows:

(b) Transactions with Affiliated Interests. Payment to affiliated interests for costs of any services or any property, right, or thing or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority shall find such payment to be reasonable and necessary for each item or class of items as determined by the commission. Any such finding shall include specific findings of the reasonableness and necessity of each item or class of items allowed and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the
same item or class of items or to unaffiliated persons or corporations. In making such findings regarding affiliate transactions, including affiliate transactions subject to Section 2.051, the regulatory authority shall make a determination regarding the extent to which the conditions and circumstances of such transactions are reasonably comparable relative to quantity, terms and conditions, date of contract, and place of delivery and allow for appropriate differences based on that determination. Nothing herein requires such findings to be made prior to the inclusion of such payments in the utility's charges to consumers so long as there is a mechanism for making such charges subject to refund pending the making of such findings. [The price paid by gas utilities to affiliated interests for natural gas from Outer Continental Shelf lands shall be subject to a rebuttable presumption that such price is reasonable if the price paid does not exceed the price permitted by federal regulation if such gas is regulated by any federal agency or if not regulated by a federal agency does not exceed the price paid by nonaffiliated parties for natural gas from Outer Continental Shelf lands. The burden of establishing that such a price paid is not reasonable shall be on any party challenging the reasonableness of such price.]

Amendment No. 6

Amend C.S.S.B. 373 on page 102, beginning on line 21 by striking subsection 4c(a) and replacing with the following:

Sec. 4c. (a) After the effective date of this section, an electric cooperative corporation may form a joint powers agency with one or more public entities as if the electric cooperative corporation were a public entity. This section becomes effective September 1, 1995.

Floor Amendment No. 7

Amend C.S.S.B. 373 by adding the following appropriately numbered Section in Article 1 to read as follows and renumbering subsequent Sections accordingly:

SECTION 1. _____. Section 3.211(g), Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74 Legislature, Regular Session, 1995, is amended to read as follows:

(g) A rate or tariff set by the commission may not authorize a utility to automatically adjust and pass through to its customers changes in costs of the utility. This subsection does not limit the right of the public utility to pass through municipal fees, including any increase in municipal fees. A public utility that traditionally passes through municipal fees shall promptly pass through any reductions.

Floor Amendment No. 14

Amend C.S.S.B. 373 by adding a new SECTION 2.31 and renumbering subsequent Sections:

"SECTION 2.31. Notwithstanding any other provision of the Act, where a general rate case was initiated in 1994, the law in effect when the complaint or petition was filed shall be continued in effect for such a proceeding until the proceeding is concluded by a final appealable decision."
Floor Amendment No. 19

Amend C.S.S.B. 373 by adding a new Sec. 2.09 adding Sec. 2.059 at page 80, line 3, to read as follows, and renumbering existing Sec. 2.09 and the succeeding sections accordingly:

SECTION 2.09. Subtitle B, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.059 to read as follows:

Section 2.059. ELECTRIC UTILITIES: REGULATION OF COMPETITION.

(a) It is the policy of this state to protect the public interest in having adequate and efficient electric service available to consumers at just, fair and reasonable rates. The legislature finds that the electric industry, through technical advancements, federal legislative and administrative actions, and the formulation of new electric enterprises, can become in many and growing areas a competitive industry that does not lend itself to traditional public utility regulatory rules and policies and that, therefore, the public interest requires that new rules and policies be formulated and applied to protect the public interest and to provide equal opportunity to all electric service providers in a competitive marketplace. It is the purpose of this section to grant to the commission the authority to carry out the public policy herein stated.

(b) For the purpose of carrying out the public policy stated in Subsection (a) of this section, and any other section of this Act notwithstanding, the commission is granted all necessary power and authority to promulgate rules and establish procedures applicable to public utilities to facilitate the development of competition consistent with the public interest and, where the commission determines that sufficient competition exists in specific electric markets or submarkets, to provide appropriate regulatory treatment to allow electric utilities to respond to significant competitive challenges. Nothing in this section is intended to change the burden of proof of an electric utility under Sections 2.202, 2.203, 2.204, 2.205, 2.206, 2.207, and 2.208 of this Act, as applicable, for services that are not subject to such competitive challenges.

(c) In promulgating rules and policies under this section, the commission shall seek to balance the public interest in a technologically advanced electric system providing services that are attractive to consumers with traditional regulatory concerns for preserving the quality and availability of service, prohibiting anti-competitive pricing and practices, preventing the subsidization of competitive services with revenues from regulated monopoly services, and maintaining rates that are not unreasonably preferential, prejudicial, or discriminatory and that are not subsidized either directly or indirectly by regulated monopoly services. The commission shall promulgate these rules and procedures so as to incorporate an appropriate mix of regulatory and market mechanisms reflecting the level and nature of competition in the marketplace.

(d) For the purposes of this section only, "public utility" and "electric utility" include an exempt wholesale generator, power marketer, and qualifying facility, river authority, and municipally owned utility.
Floor Amendment No. 1 on Third Reading

Amend C.S.S.B. 373, on third reading, by striking Floor Amendment No. 17 by Danburg, adding Section 2.09 to bill, adopted on second reading.

Floor Amendment No. 2 on Third Reading

Amend C.S.S.B. 373 on third reading Sec. 2.2141 of the committee substitute on page 51, line 44 by inserting the words "Texas State Technical College" between the words "institution", and the word "or"

The amendments were read.

On motion of Senator Armbrister and by unanimous consent, the Senate concurred in the House amendments to S.B. 373 by a viva voce vote.

SENATE BILL 569 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 569 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.

Floor Amendment No. 1

Amend S.B. 569 by inserting the following sentence after the period on line 11, page 1.

Hospice services established by the department shall meet licensure standards established under Chapter 142, Health and Safety Code, except for those standards which are determined to be in conflict with security considerations in the institutional setting.

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to S.B. 569 by a viva voce vote.

SENATE BILL 336 WITH HOUSE AMENDMENTS

Senator Rosson called S.B. 336 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

Amend S.B. 336 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to notice and cure provisions required for a defaulting purchaser under a contract for deed and to requirements for and loans associated with a contract for deed transaction in certain counties.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

1. the proliferation of colonias and substandard housing developments that lack adequate infrastructure creates serious and unacceptable health risks for the residents in these areas;

2. many residents building homes in these areas do not have access to traditional financing and the assistance of a professional builder, which promotes expansion of substandard housing;

3. the contract-for-deed arrangement allows low-income persons to purchase property and build homes on the property;

4. statutory law in this state does not ensure that:
   a. information about the property, including whether utility service is available, whether the property is located in a floodplain, or whether the title to the property is encumbered by a lien, is disclosed to the purchaser;
   b. the contract is recorded to notify subsequent creditors of the purchaser's interest in the property;
   c. legal title to the property is transferred to the purchaser by the seller when the purchaser has paid all amounts due under the contract; or
   d. the purchaser's equity in the property is protected; and

5. a purchaser under a contract-for-deed arrangement is faced with significant problems requiring statutory protection because of:
   a. the inadequacy of infrastructure in areas where this arrangement is commonly used; and
   b. the unregulated status of the contract-for-deed arrangement.

SECTION 2. Subchapter D, Chapter 5, Property Code, is amended to read as follows:

SUBCHAPTER D. EXECUTORY CONTRACT FOR CONVEYANCE

Sec. 5.061. AVOIDANCE OF FORFEITURE AND ACCELERATION OR OF RESCSSION. A seller may enforce the remedy of rescission or [•] forfeiture [of interest] and [the] acceleration against [of the indebtedness of] a purchaser in default under an executory contract for conveyance of real property used or to be used as the purchaser's residence only if the seller notifies [after notifying] the purchaser of:

1. the seller's intent to enforce a remedy under this section; [the forfeiture and acceleration] and

2. the expiration of the following periods:
   a. [+] if the purchaser has paid less than 10 percent of the purchase price, 15 days after the date notice is given;
   b. [++] if the purchaser has paid 10 percent or more but less than 20 percent of the purchase price, 30 days after the date notice is given; and
   c. [++] if the purchaser has paid 20 percent or more of the purchase price, 60 days after the date notice is given.

Sec. 5.062. NOTICE. (a) Notice under Section 5.061 of this code must be in writing. If the notice is mailed, it must be by registered or...
certified mail. The notice must be conspicuous and printed in 14-point boldface [10-point boldfaced] type or 14-point uppercase typewritten letters, and must include on a separate page the statement:

NOTICE

YOU ARE NOT COMPLYING WITH THE TERMS OF [LATE IN MAKING YOUR PAYMENT UNDER] THE CONTRACT TO BUY YOUR PROPERTY [HOME]. UNLESS YOU TAKE THE ACTION SPECIFIED IN THIS NOTICE [MAKE THE PAYMENT] BY (date) THE SELLER HAS THE RIGHT TO TAKE POSSESSION OF YOUR PROPERTY [HOME AND TO KEEP ALL PAYMENTS YOU HAVE MADE TO DATE].

(b) The notice must also:

(1) identify and explain the remedy the seller intends to enforce;
(2) if the purchaser has failed to make a timely payment, specify:
   (A) the delinquent amount, itemized into principal and interest;
   (B) any additional charges claimed, such as late charges or attorney's fees; and
   (C) the period to which the delinquency and additional charges relate; and
(3) if the purchaser has failed to comply with a term of the contract identify the term violated and the action required to cure the violation.

(c) Notice by mail is given when it is mailed to the purchaser's residence or place of business. Notice by other writing is given when it is delivered to the purchaser at the purchaser's residence or place of business. The affidavit of a person knowledgeable of the facts to the effect that notice was given is prima facie evidence of notice in an action involving a subsequent bona fide purchaser for value if the purchaser is not in possession of the real property and if the stated time to avoid the forfeiture has expired. A bona fide subsequent purchaser for value who relies upon the affidavit under this subsection shall take title free and clear of the contract.

Sec. 5.063. RIGHT TO CURE DEFAULT. Notwithstanding an agreement to the contrary, a purchaser in default under an executory contract for the conveyance of real property used or to be used as the purchaser's residence may, at any time before expiration of the applicable period provided by Section 5.061 of this code, avoid the enforcement of a remedy described by that section [FORFEITURE OF INTEREST AND ACCELERATION OF INDEBTEDNESS] by complying with the terms of the contract up to the date of compliance.

Sec. 5.064. PLACEMENT OF LIEN FOR UTILITY SERVICE. Notwithstanding any terms of a contract to the contrary, the placement of a lien for the reasonable value of improvements to residential real estate for purposes of providing utility service to the property shall not constitute a default under the terms of an executory contract for the purchase of the real property.

Sec. 5.065. DEFAULT. In this subchapter, "default" means the failure to:
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(1) make a timely payment; or
(2) comply with a term of an executory contract.

SECTION 3. Chapter 5, Property Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. REQUIREMENTS FOR EXECUTORY CONTRACT FOR CONVEYANCE APPLICABLE TO CERTAIN COUNTIES

Sec. 5.091. APPLICABILITY. (a) This subchapter applies only to an executory contract that covers real property located in a county that, as determined by the Texas Department of Housing and Community Affairs:

(1) has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; and

(2) is within 200 miles of an international border.

(b) This subchapter applies only to a transaction involving an executory contract for conveyance of real property used or to be used as the purchaser's residence. For purposes of this subchapter, a lot measuring five acres or less is presumed to be residential property.

(c) This subchapter does not apply to a transaction involving a sale of land by the Veterans' Land Board under an executory contract.

Sec. 5.092. DETERMINATION AND NOTICE OF APPLICABILITY. (a) The Texas Department of Housing and Community Affairs shall annually determine the counties in which this subchapter applies.

(b) The department shall:

(1) publish in the Texas Register a list of the counties in which this subchapter applies; and

(2) notify the county clerk of each county to which this subchapter applies.

(c) The notice required by Subsection (b) must state that Subchapter E, Chapter 5, Property Code, regulates executory contract transactions involving residential property located in the county.

(d) The department shall make its determination not later than May 1 of each year, based on consideration of statistics excluding the year in which the determination is made. The determination is effective beginning June 1 following the determination.

(e) Immediately after receiving notice from the department, the county clerk shall publish a copy of the notice on three separate days in a newspaper of general circulation in the county. If no newspaper is published in the county, the clerk shall post a copy of the notice on three separate days on a bulletin board at a place convenient to the public in the county courthouse.

Sec. 5.093. SPANISH LANGUAGE REQUIREMENT. If the negotiations that precede the execution of an executory contract are conducted primarily in Spanish, the seller shall provide a copy in Spanish of all written documents relating to the transaction, including the contract, disclosure notice, and annual accounting statements required by this subchapter and a notice of default required by Subchapter D.
Sec. 5.094. SELLER’S DISCLOSURE OF PROPERTY CONDITION.
(a) Before an executory contract is signed by the purchaser, the seller shall provide the purchaser with:

1. a survey or plat of the real property;
2. a legible copy of any document that describes an encumbrance or other claim, including a restrictive covenant or easement, that affects title to the real property; and
3. a written notice, which must be attached to the contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the seller and purchaser and read substantially similar to the following:

WARNING
IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

SELLER’S DISCLOSURE NOTICE
CONCERNING THE PROPERTY AT (street address or legal description and city)
THIS DOCUMENT STATES CERTAIN APPLICABLE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.
CHECK ALL THE ITEMS THAT ARE APPLICABLE OR TRUE:

The property is in a recorded subdivision.
The property has water service that provides potable water.
The property has sewer service.
The property has been approved by the appropriate municipal, county, or state agency for installation of a septic system.
The property has electric service.
The property is not in a floodplain.
The roads to the boundaries of the property are paved and maintained by:
   ___ the seller;
   ___ the owner of the property on which the road exists;
   ___ the municipality;
   ___ the county; or
   ___ the state;

No individual or entity other than the seller:
   ___ owns the property;
   ___ has a claim of ownership to the property; or
   ___ has an interest in the property.

No individual or entity has a lien filed against the property.

There are no back taxes owed on the property.

There are no restrictive covenants, easements, or other title exceptions or encumbrances that prohibit construction of a house on the property.

NOTICE: SELLER ADVISES PURCHASER TO:

1. OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT COVERING THE PROPERTY AND HAVE THE
ABSTRACT OR COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE:

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date) (Signature of Seller)

(Date) (Signature of Purchaser)

(b) If the property is not located in a recorded subdivision, the seller shall provide the purchaser with a separate disclosure form stating that utilities may not be available to the property until the subdivision is recorded as required by law.

(c) If the seller advertises property for sale under an executory contract, the advertisement must disclose information regarding the availability of water, sewer, and electric service.

(d) The seller's failure to provide information required by this section:

(1) is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E, Chapter 17, Business & Commerce Code; and

(2) entitles the purchaser to cancel and rescind the executory contract and receive a full refund of all payments made to the seller.

(e) Subsection (d) does not limit the purchaser's remedy against the seller for other false, misleading, or deceptive acts or practices actionable in a suit brought under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 5.095. SELLER'S DISCLOSURE OF FINANCING TERMS. Before an executory contract is signed by the purchaser, the seller shall provide to the purchaser a written statement that specifies:

(1) the purchase price of the property;
(2) the interest rate charged under the contract;
(3) the dollar amount, or an estimate of the dollar amount if the interest rate is variable, of the interest charged for the term of the contract;
(4) the total amount of principal and interest to be paid under the contract;
(5) the late charge, if any, that may be assessed under the contract; and
(6) the fact that the seller may not charge a prepayment penalty if the purchaser elects to pay the entire amount due under the contract before the scheduled payment date under the contract.

Sec. 5.096. CONTRACT TERMS PROHIBITED. A seller may not include as a term of the executory contract a provision that:

(1) imposes an additional late-payment fee that exceeds the lesser of:

(A) five percent of the monthly payment under the contract; or
(B) the actual administrative cost of processing the late payment;
(2) prohibits the purchaser from pledging the purchaser's interest in the property as security to obtain a loan to place improvements, including utility improvements or fire protection improvements, on the property; or
(3) imposes a prepayment penalty if the purchaser elects to pay the entire amount due under the contract before the scheduled payment date under the contract.

Sec. 5.097. PURCHASER'S RIGHT TO CANCEL CONTRACT WITHOUT CAUSE. (a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason not later than the 14th day after the date of the contract:
(b) The seller shall include in immediate proximity to the space reserved in the executory contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:
YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE NEXT TWO WEEKS. THE DEADLINE FOR CANCELING THE CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS RIGHT.
(c) The seller shall provide a notice of cancellation form to the purchaser at the time the purchaser signs the executory contract that is printed in 14-point boldface type or 14-point uppercase typewritten letters and that reads substantially similar to the following:
NOTICE OF CANCELLATION
(date of contract)
YOU MAY CANCEL THE EXECUTORY CONTRACT FOR ANY REASON WITHOUT ANY PENALTY OR OBLIGATION BY (date).
(1) YOU MUST SEND A TELEGRAM OR MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE TO (Name of Seller) AT (Seller's Address) BY (date).
(2) THE SELLER SHALL, NOT LATER THAN THE 10TH DAY AFTER THE DATE THE SELLER RECEIVES YOUR CANCELLATION NOTICE:
(A) RETURN THE EXECUTED CONTRACT AND ANY PROPERTY EXCHANGED OR PAYMENTS MADE BY YOU UNDER THE CONTRACT; AND
(B) CANCEL ANY SECURITY INTEREST ARISING OUT OF THE CONTRACT.
I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF CANCELLATION FORM.
(Date) (Purchaser's Signature)
I HEREBY CANCEL THIS CONTRACT.
(Date) (Purchaser's Signature)
The seller may not request the purchaser to sign a waiver of receipt of the notice of cancellation form required by this section.

Sec. 5.098. PURCHASER’S RIGHT TO PLEDGE INTEREST IN PROPERTY ON CONTRACTS ENTERED INTO BEFORE SEPTEMBER 1, 1995. (a) On an executory contract entered into before September 1, 1995, a purchaser may pledge the interest in the property, which accrues pursuant to Section 5.101, only to obtain a loan for improving the safety of the property or any improvements on the property.

(b) Loans that improve the safety of the property and improvements on the property include loans for:

1. improving or connecting a residence to water service;
2. improving or connecting a residence to a wastewater system;
3. building or improving a septic system;
4. structural improvements in the residence; and
5. improved fire protection.

Sec. 5.099. RECORDING REQUIREMENTS. (a) Except as provided by Subsection (b), the seller shall record the executory contract, including the attached disclosure statement required by Section 5.094, as prescribed by Title 3.

(b) Section 12.002(c) does not apply to an executory contract filed for record under this section.

(c) If the executory contract is terminated for any reason, the seller shall record the instrument that terminates the contract.

(d) The county clerk shall collect the filing fee prescribed by Section 118.011, Local Government Code.

Sec. 5.100. ANNUAL ACCOUNTING STATEMENT. (a) The seller shall provide the purchaser with an annual statement in January of each year for the term of the executory contract. If the seller mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(b) The statement must include the following information:

1. the amount paid under the contract;
2. the remaining amount owed under the contract; and
3. the number of payments remaining under the contract.

(c) If the seller fails to comply with Subsection (a), the purchaser may:

1. notify the seller that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and
2. not earlier than the 25th day after the date the purchaser provides the seller notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(d) A purchaser who makes a deduction under Subsection (c) is not required to reimburse the seller for the amount deducted.

Sec. 5.101. EQUITY PROTECTION: SALE OF PROPERTY. (a) If a purchaser defaults after the purchaser has paid 40 percent or more of the amount due or the equivalent of 48 monthly payments under the executory contract, the seller is granted the power to sell, through a trustee designated by the seller, the purchaser’s interest in the property as provided
by this section. The seller may not enforce the remedy of rescission or of forfeiture and acceleration.

(b) The seller shall notify a purchaser of a default under the contract and allow the purchaser at least 60 days after the date notice is given to cure the default. The notice must be provided as prescribed by Section 5.062 except that the notice must substitute the following statement:

**NOTICE**

YOU ARE NOT COMPLYING WITH THE TERMS OF THE CONTRACT TO BUY YOUR PROPERTY. UNLESS YOU TAKE THE ACTION SPECIFIED IN THIS NOTICE BY (date) A TRUSTEE DESIGNATED BY THE SELLER HAS THE RIGHT TO SELL YOUR PROPERTY AT A PUBLIC AUCTION.

(c) The trustee or a substitute trustee designated by the seller must post, file, and serve a notice of sale and the county clerk shall record and maintain the notice of sale as prescribed by Section 51.002. A notice of sale is not valid unless it is given after the period to cure has expired.

(d) The trustee or a substitute trustee designated by the seller must conduct the sale as prescribed by Section 51.002. The seller must convey to a purchaser at a sale conducted under this section fee simple title to the real property.

(e) The remaining balance of the amount due under the executory contract is the debt for purposes of a sale under this section. If the proceeds of the sale exceed the debt amount, the seller shall disburse the excess funds to the purchaser under the executory contract. If the proceeds of the sale are insufficient to extinguish the debt amount, the seller’s right to recover the resulting deficiency is subject to Sections 51.003, 51.004, and 51.005 unless a provision of the executory contract releases the purchaser under the contract from liability.

(f) The affidavit of a person knowledgeable of the facts that states that the notice was given and the sale was conducted as provided by this section is prima facie evidence of those facts in an action involving a bona fide purchaser at the sale or a subsequent bona fide purchaser for value if the purchaser under the executory contract is not in possession of the property and if the period to cure the default has expired. A bona fide purchaser for value who relies on an affidavit under this subsection acquires title to the property free and clear of the executory contract.

(g) If a purchaser defaults before the purchaser has paid 40 percent of the amount due or the equivalent of 48 monthly payments under the executory contract, the seller may enforce the remedy of rescission or of forfeiture and acceleration of the indebtedness if the seller complies with the notice requirements of Sections 5.061 and 5.062.

Sec. 5.102. TITLE TRANSFER. (a) The seller shall transfer recorded, legal title of the property covered by the executory contract to the purchaser not later than the 30th day after the date the seller receives the purchaser’s final payment due under the contract.

(b) A seller who violates Subsection (a) is subject to a penalty of:

1. $250 a day for each day the seller fails to transfer the title to the purchaser during the period that begins the 31st day and ends the 90th
day after the date the seller receives the purchaser's final payment due under the contract; and

(2) $500 a day for each day the seller fails to transfer title to the purchaser after the 90th day after the date the seller receives the purchaser's final payment due under the contract.

(c) In this section, "seller" includes a successor, assignee, personal representative, executor, or administrator of the seller.

Sec. 5.103. LIABILITY FOR DISCLOSURES. For purposes of this subchapter, a disclosure required by this subchapter that is made by a seller's agent is a disclosure made by the seller.

SECTION 4. Section 2306.092, Government Code, is amended to read as follows:

Sec. 2306.092. DUTIES. The department, through the community affairs division, shall:

(1) maintain communication with local governments and act as an advocate for local governments at the state and federal levels;
(2) assist local governments with advisory and technical services;
(3) provide financial aid to local governments and combinations of local governments for programs that are authorized to receive assistance;
(4) provide information about and referrals for state and federal programs and services that affect local governments;
(5) administer, conduct, or jointly sponsor educational and training programs for local government officials;
(6) conduct research on problems of general concern to local governments;
(7) collect, publish, and distribute information useful to local governments, including information on:
(A) local government finances and employment;
(B) housing;
(C) population characteristics; and
(D) land-use patterns;
(8) encourage cooperation among local governments as appropriate;
(9) advise and inform the governor and the legislature about the affairs of local governments and recommend necessary action;
(10) assist the governor in coordinating federal and state activities affecting local governments;
(11) administer, as appropriate:
(A) state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);
(B) programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and
(C) other federal acts creating economic opportunity programs assigned to the department;
(12) develop a consumer education program to educate consumers on executory contract transactions for conveyance of real property used or to be used as the consumer's residence:
(13) adopt rules that are necessary and proper to carry out programs and responsibilities assigned by the legislature or the governor; and

(14) [new] perform other duties relating to local government that are assigned by the legislature or the governor.

SECTION 5. The change in law made by Section 2 of this Act applies to enforcement, cancellation, or rescission of executory contracts on which the purchaser defaults on or after the effective date of this Act regardless of when the contract was entered. A purchaser who is in default before the effective date of this Act is covered by the law in effect when the default occurred, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 1995, except that:

(1) Subchapter E, Chapter 5, Property Code, as added by this Act, applies in a county beginning on a date designated by the Texas Department of Housing and Community Affairs, which date must be at least 30 days after the date on which notice is given to the county clerk under that subchapter, but not later than November 1, 1995; and

(2) the Texas Department of Housing and Community Affairs shall act as soon as practicable to make the initial determinations under Subchapter E, Chapter 5, Property Code, as added by this Act, and shall publish and give notice of those determinations not later than October 1, 1995.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 336, on page 7, line 13, strike "(1) a survey or plat of the real property:" and substitute "(1) a survey, which was completed within the past year, or plat of a current survey of the real property:".

Floor Amendment No. 2

Amend C.S.S.B. 336 by inserting the following between line 6 and 7, on page 6:

(d) This subchapter does not apply to executory contracts that provide for the delivery of a deed from the seller to the purchaser within 180 days of the date of the final execution of the executory contract.

Floor Amendment No. 3

Amend C.S.S.B. 336, in SECTION 3 of the bill, by striking proposed Section 5.096, Property Code (House committee report, page 10, lines 23-27, and page 11, lines 1-10), and substituting the following:

Sec. 5.096. CONTRACT TERMS PROHIBITED. A seller may not include as a term of the executory contract a provision that:
Floor Amendment No. 4

Amend C.S.S.B. 336, in SECTION 3 of the bill, in proposed Section 5.097, Property Code, by striking Subsections (a) and (b) (House committee report, page 11, lines 12-24) and substituting the following:

(a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason not later than the seventh day after the date of the contract.

(b) The seller shall include in immediate proximity to the space reserved in the executory contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE NEXT SEVEN DAYS. THE DEADLINE FOR CANCELING THE CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS RIGHT.

Floor Amendment No. 5

Amend C.S.S.B. 336 as follows:

(1) In SECTION 3 of the bill, in proposed Section 5.097, Property Code, strike Subsection (a) (House committee report, page 11, lines 11-15), and substitute the following:

(a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason by sending by telegram, by mailing, or by delivering in person a signed and dated written notice of cancellation to the seller not later than the 14th day after the date of the contract.

(b) If the purchaser cancels the contract as provided by Subsection (a), the seller shall, not later than the 10th day after the date the seller receives the purchaser's notice of cancellation:

(1) return to the purchaser the executed contract and any property exchanged or payments made by the purchaser under the contract; and

(2) cancel any security interest arising out of the contract.
In SECTION 3 of the bill, in proposed Section 5.097, Property Code (House committee report, page 11, line 16 through page 13, line 1), reletter Subsections (b), (c), and (d) accordingly.

Floor Amendment No. 6

Amend C.S.S.B. 336, in SECTION 3 of the bill, by striking proposed Section 5.097, Property Code (House committee report, page 11, line 11, through page 13, line 1), and substituting the following:

Sec. 5.097. PURCHASER'S RIGHT TO CANCEL CONTRACT WITHOUT CAUSE. (a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason by sending by telegram or certified or registered mail, return receipt requested, or by delivering in person a signed, written notice of cancellation to the seller not later than the 14th day after the date of the contract.

(b) If the purchaser cancels the contract as provided by Subsection (a), the seller shall, not later than the 10th day after the date the seller receives the purchaser's notice of cancellation:

(1) return to the purchaser the executed contract and any property exchanged or payments made by the purchaser under the contract; and

(2) cancel any security interest arising out of the contract.

(c) The seller shall include in immediate proximity to the space reserved in the executory contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE NEXT TWO WEEKS. THE DEADLINE FOR CANCELING THE CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS RIGHT.

(d) The seller shall provide a notice of cancellation form to the purchaser at the time the purchaser signs the executory contract that is printed in 14-point boldface type or 14-point uppercase typewritten letters and that reads substantially similar to the following:

NOTICE OF CANCELLATION

(date of contract)

YOU MAY CANCEL THE EXECUTORY CONTRACT FOR ANY REASON WITHOUT ANY PENALTY OR OBLIGATION BY (date).

(1) YOU MUST SEND BY TELEGRAM OR CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR DELIVER IN PERSON A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE TO (Name of Seller) AT (Seller's Address) BY (date).

(2) THE SELLER SHALL, NOT LATER THAN THE 10TH DAY AFTER THE DATE THE SELLER RECEIVES YOUR CANCELLATION NOTICE:

(A) RETURN THE EXECUTED CONTRACT AND ANY PROPERTY EXCHANGED OR PAYMENTS MADE BY YOU UNDER THE CONTRACT; AND
(B) CANCEL ANY SECURITY INTEREST ARISING OUT OF THE CONTRACT.

I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF CANCELLATION FORM.

(Date) (Purchaser's Signature)

I HEREBY CANCEL THIS CONTRACT.

(Date) (Purchaser's Signature)

(e) The seller may not request the purchaser to sign a waiver of receipt of the notice of cancellation form required by this section.

Floor Amendment No. 7

Amend C.S.S.B. 336 as follows:

1) On page 6, line 2, after the word "measuring" strike the word [five] and substitute the word one.

Floor Amendment No. 8

Amend C.S.S.B. 336 by striking proposed Section 5.100(b), Property Code (page 14, lines 6-10), and substituting the following:

(b) The statement must include the following information:

(1) the amount paid under the contract;
(2) the remaining amount owed under the contract;
(3) the number of payments remaining under the contract; and
(4) the amounts paid to taxing authorities on the purchaser's behalf if collected by the seller.

Floor Amendment No. 9

Amend C.S.S.B. 336 by adding the following appropriately numbered section and renumbering the remaining sections of the bill appropriately:

SECTION ___. Section 51.002(a), Property Code, is amended to read as follows:

(a) A sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month, or, if the first Tuesday of the month is designated as a national or state holiday under Section 662.003, Government Code, on the first day after the first Tuesday of the month that is not a national or state holiday. The sale must take place at the county courthouse in the county in which the land is located, or if the property is located in more than one county, the sale may be made at the courthouse in any county in which the property is located. The commissioners court shall designate the area at the courthouse where the sales are to take place and shall record the designation in the real property records of the county. The sale must occur in the designated area. If no area is designated by the commissioners court, the notice of sale must designate the area at the courthouse where the sale covered by that notice is to take place, and the sale must occur in that area.
Amendment No. 1 on Third Reading

Amend C.S.S.B. 336 on third reading by striking second reading Amendment No. 9 by Pickett.

The amendments were read.

On motion of Senator Rosson and by unanimous consent, the Senate concurred in the House amendments to S.B. 336 by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 166
ON SECOND READING

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

H.C.R. 166, Encouraging the Department of Public Safety to include additional information regarding alcohol and drug abuse in the Texas Drivers Handbook.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 168
ON SECOND READING

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

H.C.R. 168, Renaming the Terrell State Hospital Family Center the Martha Allen Family Center.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE BILL 1884 ON SECOND READING

On motion of Senator Cain 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. 1884, Relating to the additional tax imposed on certain land appraised for ad valorem tax purposes as open-space land the use of which is changed to cemetery purposes.

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

HOUSE BILL 1884 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1884 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 1836 ON SECOND READING**

On motion of Senator Ratliff 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. 1836**, Relating to the tuition charged to certain residents of bordering states at certain public institutions of higher education.

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

**HOUSE BILL 1836 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1836** be placed on its third reading and final passage.

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

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

**SENATE BILL 647 WITH HOUSE AMENDMENT**

Senator Barrientos called **S.B. 647** 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**

**S.B. 647** is amended by adding a new Section 6 as set out below and renumbering all sections thereafter as appropriate:

Section 6. **DISPOSITION OF REVENUES.** All money collected by the commission under this chapter shall be deposited to the credit of the water well drillers fund and may be used only to administer this chapter. The commission shall allocate not more than 20 percent of the water well drillers fund to cover administrative costs of the commission.

**S.B. 647** is amended by renumbering existing Section 6 and 7 to Section 7 and 8.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, the Senate concurred in the House amendment to **S.B. 647** by a viva voce vote.

**SENATE BILL 675 WITH HOUSE AMENDMENTS**

Senator Barrientos called **S.B. 675** 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

S.B. 675, Section 1, is amended by adding the following definition between lines 1 and 11 and renumbering as appropriate.
"Deteriorated well" means a well that, because of its condition, will cause, or is likely to cause, pollution of any water in this state, including groundwater.

Committee Amendment No. 2

S.B. 675, Section 4, is amended by adding Section 32.006(i) of the Water Code to read as follows:
A member of the council is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the council. A member may receive compensation for travel expenses, including expenses for meals and lodging. A member is entitled to compensate for transportation expenses as prescribed by the General Appropriations Act.
Renumber existing Section 4 through 7 to Sections 5 through 8, respectively.

Committee Amendment No. 3

S.B. 675, Section 6, is amended by adding Section 32.014 of the Water Code to read as follows:
DISPOSITION OF REVENUES. All money collected by the commission under this chapter shall be deposited to the credit of the water well drillers fund and may be used only to administer this chapter. The commission shall allocate not more than 20 percent of the water well drillers fund to cover administrative costs of the commission.
Renumber Sections 6 through 7 to Sections 7 through 8.

Committee Amendment No. 4

S.B. 675, Section 7, is amended by adding Section 32.017(e) of the Water Code to read as follows:
(e) A licensed driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to the executive director not later than the 30th day after the date the well is plugged. The commission shall furnish plugging report forms on request.
Renumber Sections 7 through 8 to Sections 8 through 9.

The amendments were read.

On motion of Senator Barrientos and by unanimous consent, the Senateconcurred in the House amendments to S.B. 675 by a viva voce vote.

SENATE BILL 494 WITH HOUSE AMENDMENTS

Senator Bivins called S.B. 494 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.
Floor Amendment No. 1

Amend S.B. 494 in SECTION 1 of the bill, in proposed Section 12, Article 42.21, Code of Criminal Procedure, (House committee report, page 7, between lines 18 and 19), by inserting a new Subsection (d) to read as follows:

(d) A partial release of a lien as to specific property may be executed by the attorney representing the state or a magistrate who signs an affidavit described by Section 6 on payment of a sum determined to represent the defendant's interest in any property to which the lien may attach.

Floor Amendment No. 2

Amend S.B. 494 (House committee report) as follows:

1. In SECTION 1 of the bill, in proposed Section 3, Article 42.21, Code of Criminal Procedure, between "restitution lien" and "is perfected" (page 2, line 8), insert "attaches and".
2. In SECTION 1 of the bill, in proposed Section 9(1), Article 42.21, Code of Criminal Procedure (page 6, line 3), strike "possesses" and substitute "acquires".
3. In SECTION 1 of the bill, in proposed Section 9(1), Article 42.21, Code of Criminal Procedure, between "lien" and the semicolon (page 6, line 4), insert "or a valid lien or security interest secured by a vendor's lien".
4. In SECTION 1 of the bill, in proposed Section 9, Article 42.21, Code of Criminal Procedure (page 6, lines 8-11), strike Subdivision (3) and substitute the following:
   (3) a bona fide purchaser for value who acquires and files for record an interest in the property, if real property, before the perfection of the restitution lien.
5. In SECTION 1 of the bill, in proposed Section 12(c), Article 42.21, Code of Criminal Procedure (page 7, lines 14-18), strike the last sentence and substitute the following:
   If the defendant satisfies the judgment, the clerk shall immediately execute and file for record a release of the restitution lien with all officers or entities with which the affidavit perfecting the lien was filed, as indicated by the notice received by the clerk under Section 7(h), unless a release was executed and filed by the person who filed the affidavit to perfect the lien.

The amendments were read.

On motion of Senator Bivins and by unanimous consent, the Senate concurred in the House amendments to S.B. 494 by a viva voce vote.

SENATE BILL 680 WITH HOUSE AMENDMENTS

Senator Shapiro called S.B. 680 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

Amend S.B. 680 by striking SECTION 4 of the bill (Senate engrossment, page 3, lines 8-16) and substituting the following:

SECTION 4. Sections 50.004(a) and (d), Water Code, are amended to read as follows:

(a) In a general election for board members under Chapter 50, 51, 52, 53, [or] 54, 55, or 58 of this code, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

(d) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 45th [50th] day before election day. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 45th [55rd] day before election day, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 42nd [27th] day before election day.

Floor Amendment No. 1 on Third Reading

Amend S.B. 680 on third reading in Section 1 of the bill, in proposed Subchapter C, Chapter 2, Election Code, by inserting a new Section 2.054 (House committee report, page 2, between lines 13 and 14) to read as follows:

Sec. 2.054. COERCION AGAINST CANDIDACY PROHIBITED. (a) A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy in an election that may be subject to this subchapter.

(b) In this section, "coercion" has the meaning assigned by Section 1.07, Penal Code.

(c) An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

The amendments were read.

On motion of Senator Shapiro and by unanimous consent, the Senate concurred in the House amendments to S.B. 680 by a viva voce vote.

SENATE BILL 695 WITH HOUSE AMENDMENT

Senator Zaffirini called S.B. 695 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. 2

Amend S.B. 695 on page 2 by striking all of Sec. 614.073. and renumbering the following Sections appropriately.

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to S.B. 695 by a viva voce vote.
SENATE BILL 739 WITH HOUSE AMENDMENTS

Senator Leedom called S.B. 739 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

Amend S.B. 739, page 1, lines 14-15, Section 754.014(a)(2) as follows:

"(2) buildings that contain an elevator, an escalator, or related equipment that [the] is open to the general public, [to generally invite to use;] including a hotel, motel, apartment house, boarding house, church, office, shopping center, or other commercial establishment."

Committee Amendment No. 2

Amend S.B. 739 by adding new Section as follows:

Strike Section 2 and substitute the following:

SECTION 2. Subchapter B, Chapter 754, Health and Safety Code, is amended by adding Section 754.0111 to read as follows:

Sec. 754.0111. EXEMPTION. This subchapter does not apply to an elevator, escalator or related equipment in a private building for a labor union, trade association, private club or charitable organization that has two or fewer floors.

Renumber SECTIONS 2 and 3 accordingly.

The amendments were read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendments to S.B. 739 by a viva voce vote.

HOUSE BILL 3200 ON SECOND READING

On motion of Senator Henderson 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. 3200, Relating to regulation of investment securities; revising Chapter 8 of the Business and Commerce Code.

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

HOUSE BILL 3200 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 3200 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yea's 31, Nay's 0.

The bill was read third time and was passed by a viva voce vote.
HOUSE BILL 875 ON SECOND READING

On motion of Senator Rosson 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. 875, Relating to the appointment to and the powers and duties of a municipal zoning board of adjustment.

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

HOUSE BILL 875 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 875 be placed on its third reading and final passage.

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

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

SENATE BILL 814 WITH HOUSE AMENDMENTS

Senator Brown called S.B. 814 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

Amend S.B. 814 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to the requirement of commercial licenses to catch, unload, and sell aquatic products.

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

SECTION 1. Section 47.001(1), Parks and Wildlife Code, is amended to read as follows:

(1) "Commercial fisherman" means a person who [catches aquatic products except shrimp taken with a license issued under the authority of Chapter 77 of this code or oysters taken from the water of this state] for pay or for the purpose of sale, barter, or exchange or any other commercial purpose;

(A) catches aquatic products from the water of this state; or

(B) unloads in this state aquatic products that:

(i) were taken from water outside this state; and

(ii) have not been previously unloaded in another state or a foreign country.

SECTION 2. Section 47.002, Parks and Wildlife Code, is amended by adding Subsections (e), (f), and (g) to read as follows:
(c) A person who catches or assists in catching shrimp on a vessel licensed as a commercial shrimp boat under Chapter 77 is not required to obtain or possess a general commercial fisherman's license. The exemption provided by this section applies even though aquatic life other than shrimp are caught if that catching is incidental to lawful shrimping.

(f) A person who takes or assists in taking oysters on a vessel licensed as a commercial oyster boat under Chapter 76 is not required to obtain or possess a general commercial fisherman's license.

(g) A person who is licensed as a bait dealer under this chapter is not required to obtain or possess a general commercial fisherman's license if the person is catching bait only.

SECTION 3. Section 47.0091, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE FISH DEALERS. No wholesale fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purpose any aquatic product from any person or entity in this state unless he purchases the product from the holder of:

1. a general commercial fisherman's license;
2. a commercial oyster fisherman's license;
3. a commercial oyster boat license;
4. a wholesale fish dealer's license;
5. a fish farmer's license;
6. a commercial shrimp boat license; or
7. a commercial oyster boat captain's license; or
8. a commercial shrimp boat captain's license.

SECTION 4. Section 47.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.0111. PURCHASE OF AQUATIC PRODUCTS BY RETAIL FISH DEALERS. No retail fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purposes any aquatic products from any person or entity in this state unless he purchases the product from the holder of:

1. a wholesale fish dealer's license;
2. a general commercial fisherman's license; or a commercial shrimp boat license, or a commercial shrimp boat captain's license when the retail fish dealer has given written notification to the executive director of the department or his designee of the dealer's intent to purchase aquatic products from the holder of a general commercial fisherman's license, or a commercial shrimp boat license, or a commercial shrimp boat captain's license; or
3. a fish farmer's license.

SECTION 5. Section 47.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.012. PURCHASE OF AQUATIC PRODUCTS BY RESTAURANT OWNER, OPERATOR, OR EMPLOYEE. No restaurant owner, operator, or employee may purchase for consumption by the restaurant's patrons on the restaurant's premises any aquatic product from
any person or entity in this state unless the person purchases the aquatic product from the holder of:

1. a wholesale fish dealer's license;
2. a general commercial fisherman's license;
3. a fish farmer's license; or
4. a commercial shrimp boat license; or
5. a commercial shrimp boat captain's license.

SECTION 6. Section 66.019(f), Parks and Wildlife Code, is amended to read as follows:

(f) A cash sale ticket must include:

1. the name of the seller;
2. the general commercial fisherman's license number, the commercial finfish fisherman's license number, the commercial shrimp boat captain's license number, the commercial shrimp boat license number, or the commercial fishing boat license number of the seller or of the vessel used to take the aquatic product, as applicable;
3. [the finfish license number of the seller, if one is required;]
4. [the number of pounds sold by species;]
5. [the date of sale;]
6. [the water body or bay system from which the aquatic products were taken; and]
7. [the price paid per pound per species.

SECTION 7. Subchapter C, Chapter 77, Parks and Wildlife Code, is amended by adding Sections 77.0351 and 77.0352 to read as follows:

Sec. 77.0351. COMMERCIAL SHRIMP BOAT CAPTAIN'S LICENSE.
(a) No captain of a licensed commercial shrimp boat may operate a licensed commercial shrimp boat while catching or attempting to catch shrimp from the public water of this state or unloading or attempting to unload in this state shrimp and other aquatic products taken from saltwater outside this state for pay or for purposes of sale, unless the person holds a commercial shrimp boat captain's license issued by the department.
(b) Except as provided by Subsection (c), the fee for a resident commercial shrimp boat captain's license is $25 or an amount set by the commission, whichever amount is more.
(c) The fee for a nonresident commercial shrimp boat captain's license is $100 or an amount set by the commission, whichever amount is more.
(d) In this section, "resident" and "nonresident" have the meanings assigned by Section 47.001.

Sec. 77.0352. SALE OF CATCH. (a) The holder of a commercial shrimp boat license may sell only the catch of shrimp from the vessel to which the commercial shrimp boat license applies.
(b) The holder of a commercial shrimp boat license may sell aquatic products other than shrimp if those aquatic products:
1. were taken incidental to lawful shrimping on the vessel to which the commercial shrimp boat license applies; and
2. comply with all applicable provisions of this code or commission regulations.
(c) The holder of a commercial shrimp boat captain's license may sell only:
(1) the catch of shrimp from the vessel being operated by that license holder; and
(2) aquatic products other than shrimp if those aquatic products:
(A) were taken incidental to lawful shrimping; and
(B) comply with all applicable provisions of this code or commission regulations.
(d) Subsection (c) does not authorize the sale of shrimp or other aquatic products without the consent of the owner of the vessel used to make the catch.
(e) No person, including a crew member of a licensed commercial shrimp boat, may sell the catch of shrimp or other aquatic products taken incidental to the legal shrimping operation, except as provided by this section.

SECTION 8. Section 77.040(b), Parks and Wildlife Code, is amended to read as follows:
(b) The captain of a commercial shrimp boat who holds a commercial shrimp boat captain's license and each paid member of the crew of a boat having a commercial shrimp boat license issued under this subchapter are not required to have a general commercial fisherman's license issued under Section 47.002 of this code, a commercial finfish fisherman's license issued under Section 47.003 of this code, or a bait dealer's license issued under Section 47.014 of this code to catch and unload aquatic products lawfully taken incidental to lawful shrimping (unless a species of aquatic life other than shrimp is possessed on board the boat or vessel).

SECTION 9. Section 47.018(e), Parks and Wildlife Code, is repealed.

SECTION 10. (a) This Act takes effect September 1, 1995.
(b) The change in law made by this Act applies only to an offense committed on or after September 1, 1995. For purposes of this subsection, an offense is committed before September 1, 1995, if any element of the offense occurs before that date.
(c) An offense committed before September 1, 1995, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 11. 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.

Amendment No. 2
Amend C.S.S.B. 814 by striking Section 7 and Section 8 and by striking:

on page 2, line 24
on page 3, line 7 after "," or a commercial shrimp boat license captain's license"
and on line 12, after "," or a commercial shrimp boat license captain's license"
and on line 27, page 3, by striking all of line 27
and on page 4, line 7, strike "the commercial shrimp boat's captain's license number"
and on page 4, after the "," on line 27, strike the following language through line 1 on page 5
strike all between lines 2 & 7, page 5
strike lines 20 & 21, page 5

Floor Amendment No. 1 on Third Reading
Amend C.S.S.B. 814, on third reading, SECTION 7. Sec. 77.0351.(b), page 5, lines 3 and 4, as follows:
After the word "license", strike "is $25 or an amount set by the commission, whichever amount is more", and insert "shall be no less than $25 and no more than $50".

Floor Amendment No. 2 on Third Reading
Amend C.S.S.B. 814, on third reading, by deleting second reading Amendment No. 2, in its entirety.
The amendments were read.
On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendments to S.B. 814 by a viva voce vote.

(President in Chair)

HOUSE BILL 2460 ON SECOND READING
Senator Armbrister again asked unanimous consent to suspend the regular order of business to take up for consideration at this time:
H.B. 2460, Relating to the possession, purchase, sale, distribution, and receipt of cigarettes and tobacco products; providing penalties.
There was objection.
Senator Armbrister again moved to suspend the regular order of business and take up H.B. 2460 for consideration at this time.
The motion prevailed by the following vote: Yeas 25, Nays 3, Present-not voting 1.
Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Henderson, Leedom, Lucio, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire.
Nays: Haywood, Moncrief, Zaffirini.
Present-not voting: Nixon.
Absent: Luna, Madla.
The bill was read second time.
Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 1
Amend H.B. 2460 in SECTION 1 by striking Subsection (b) of Section 161.092, Health and Safety Code, in its entirety and inserting in lieu thereof the following:
(b) This chapter does not preempt or supersede any ordinance, rule, regulation, or statute relating to the sale, distribution, advertising, display, or promotion of cigarettes or tobacco products.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, Floor Amendment No. 1 was withdrawn.

The bill was passed to third reading by a viva voce vote.

RECORD OF VOTE

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

HOUSE BILL 2460 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2460 be placed on its third reading and final passage.

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


Nays: Haywood, Moncrief, Zaffirini.

Absent: Lucio, Madla.

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

RECORD OF VOTES

Senators Bivins, Haywood, Moncrief, and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Bivins in Chair)

STATEMENT OF LEGISLATIVE INTENT

Senator West submitted the following statement of legislative intent:

After my discussions with the interested parties on all sides of this issue, I believe that the statewide uniformity section of H.B. 2460 with regard to advertising is intended to effect "point of sale" only. Nothing in this Act is intended to effect the zoning or billboard regulatory authority of any city. Were it not for the lateness of the session a phrase such as "nothing in this Act shall be construed to effect the city's authority to regulate billboards" would be in order and acceptable to the author.

However, due to the procedural rules of the House, such an amendment at this late hour would effectively kill this legislation that is so vitally
needed to prevent youth access to tobacco products and ensure that Texas does not lose any federal alcohol and drug abuse funding. Therefore, the author and I offer this clarification for the journal in order to clearly represent the Legislature's intention.

WEST

SENATE BILL 885 WITH HOUSE AMENDMENT

Senator Brown called S.B. 885 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

Amend S.B. 885 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to the eligibility for workers' compensation benefits of professional athletes employed by a franchise of the International Hockey League or the National Hockey League.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 406.095(c), Labor Code, is amended to read as follows:

(c) In this section, "professional athlete" means a person employed as a professional athlete by a franchise of:

(1) the National Football League;
(2) the National Basketball Association;
(3) the American League of Professional Baseball Clubs; [or]
(4) the National League of Professional Baseball Clubs;
(5) the International Hockey League; or
(6) the National Hockey League.

SECTION 2. This Act takes effect September 1, 1995, and applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after that date. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 885 by a viva voce vote.
SENATE BILL 1044 WITH HOUSE AMENDMENT

Senator Brown called S.B. 1044 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.

Floor Amendment No. 1

Amend S.B. 1044 as follows:
(1) On page 4, line 3, between "that" and "the", insert "is open to"; between "the" and "public", insert "general"; and by bracketing and striking through "is generally invited to use".
(2) On page 4, line 25, between "commissioner" and "grant", strike "may" and substitute "shall".
(3) On page 9, line 25, after "FEES.", insert ".(a)."
(4) On page 10, between lines 3 and 4, add new subsection (b) to read as follows: "(b) The amount charged for an inspection or the performance of an inspection may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person."
(5) On page 11, line 1, between "elevator" and "escalator", insert "," and bracket and strike through "or"; after "escalator", insert "escalator, or related equipment".
(6) On page 11, line 25, between "elevators" and "be", insert ", escalators, or related equipment".

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 1044 by a viva voce vote.

SENATE BILL 748 WITH HOUSE AMENDMENT

Senator Henderson called S.B. 748 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

Amend S.B. 748 as follows:
1. On page 1, lines 14 and 15, after the word "mail", strike ", not later than the 90th day before the date the grantor conveys the property."
2. On page 1, line 23, after the word "for", strike "the next" and add "a"
3. On page 2, line 1, after the word "government", strike "," and add "within 60 days. The grantor or his representative shall appear before the governing body of the local government at such meeting to answer any questions about the property. The local government shall accept or reject the proposed conveyance within 90 days of the meeting."
4. On page 2, line 3, after the word "Subsection (a)" strike ";" and add "immediately after the governing body of the local government approves the conveyance."

5. On page 2, strike lines 4 - 10.

The amendment was read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendment to S.B. 748 by a viva voce vote.

SENATE BILL 1227 WITH HOUSE AMENDMENTS

Senator Armbrister called S.B. 1227 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.

Floor Amendment No. 1

Amend S.B. 1227 in SECTION 1 of the bill (House committee printing) as follows:

(1) Strike the introductory language (page 1, lines 3-5) and substitute the following:

SECTION 1. Subtitle E, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.2011 to read as follows:

(2) At the beginning of the new law added by the section (page 1, line 6), strike "Sec. 37A." and substitute "Sec. 2.2011. COOPERATIVE CORPORATIONS."

(3) In Subsection (b) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 2, line 8), strike "Section 17(al" and substitute "Section 2.101(a)"

(4) In Subsection (j) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 5, line 22), strike "Section 43" and substitute "Section 2.212"

(5) In Subsection (j) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 5, line 23), strike "Article VI of this Act" and substitute "this subtitle"

(6) In the first sentence of Subsection (o) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 8, lines 6 and 11), strike "Section 42" and substitute "Section 2.211"

Floor Amendment No. 2

Amend S.B. 1227 on page 8, line 15, by adding a new subsection (p) to read as follows:

(p) An electric cooperative that has elected to be exempt from rate regulation may by resolution adopt retail tariffs or contracts containing charges that are less than average embedded cost retail rates but equal to or greater than the cooperative's marginal cost. The standards of section 2.052, rather than other standards in this section, shall be applied in
reviewing rates adopted pursuant to this subsection, however, the cooperative’s marginal cost shall be the lowest marginal cost of any of the cooperative’s wholesale power suppliers.

The amendments were read.

Senator Armbrister moved to concur in the House amendments to S.B. 1227.

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

(President in Chair)

SENATE BILL 1232 WITH HOUSE AMENDMENT

Senator Armbrister called S.B. 1232 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

Amend S.B. 1232 as follows:

(1) On page 5, line 6, strike "September 1, 1998" and substitute "August 31, 1997".

(2) On page 5, line 12, strike "September 1, 1998" and substitute "August 31, 1997".

The amendment was read.

On motion of Senator Armbrister and by unanimous consent, the Senate concurred in the House amendment to S.B. 1232 by a viva voce vote.

SENATE BILL 789 WITH HOUSE AMENDMENT

Senator Harris called S.B. 789 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

Amend S.B. 789 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to possession and delivery of a child in an emergency without a court order.

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

SECTION 1. Subchapter A, Chapter 262, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 262.007 to read as follows:
Sec. 262.007. POSSESSION AND DELIVERY OF MISSING CHILD. 
(a) A law enforcement officer who, during a criminal investigation relating to a child's custody, discovers that a child is a missing child and believes that a person may flee with or conceal the child may take possession of the child and provide for the delivery of the child as provided by Subsection (b).

(b) An officer who takes possession of a child under Subsection (a) shall deliver or arrange for the delivery of the child to a person entitled to possession of the child.

(c) If a person entitled to possession of the child is not immediately available to take possession of the child, the law enforcement officer shall deliver the child to the department. Until a person entitled to possession of the child takes possession of the child, the department may, without a court order, retain possession of the child not longer than 14 days after the date the child is delivered to the department. While the department retains possession of a child under this subsection, the department may place the child in foster home care. If a parent or other person entitled to possession of the child does not take possession of the child before the 15th day after the date the child is delivered to the department, the department shall proceed under this chapter as if the law enforcement officer took possession of the child under Section 262.104.

SECTION 2. This Act takes effect September 1, 1995.

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 amendment was read.

On motion of Senator Harris and by unanimous consent, the Senate concurred in the House amendment to S.B. 789 by a viva voce vote.

SENATE BILL 1260 WITH HOUSE AMENDMENT

Senator Montford called S.B. 1260 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

Amend S.B. 1260 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the use of the general obligation bonding authority of the farm and ranch finance program fund for the Texas agricultural fund within the Texas Agricultural Finance Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 58.021, Agriculture Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this section, the authority may also design and implement programs to further rural economic development.

SECTION 2. Sections 58.031(a), (c), and (e), Agriculture Code, are amended to read as follows:

(a) The board by resolution may periodically provide for the issuance of general obligation bonds as authorized by the Texas Constitution for the establishment of the Texas agricultural fund and the rural microenterprise fund.

(c) The authority may issue and sell general obligation bonds of the state [not to exceed $25 million outstanding at any one time] for the purpose of providing money to establish a Texas agricultural fund. The authority may issue the bonds in one or several installments.

(e) The authority may issue and sell general obligation bonds of the state for the purpose of providing money to establish a rural microenterprise development fund [so that the principal amount outstanding shall not exceed $5 million at any one time]. The authority may issue the bonds in one or several installments.

SECTION 3. Section 59.001(2), Agriculture Code, is amended to read as follows:

(2) "Board" means the board of directors of the authority [Veterans Land-Board].

SECTION 4. Section 59.002(b), Agriculture Code, is amended to read as follows:

(b) The board shall administer the fund. [At the request of the authority, the board shall make available to the authority money from the fund to pay debt service on the program's bonds and to provide financial assistance to borrowers to purchase farm or ranch land as provided by this chapter.]

SECTION 5. Section 59.003, Agriculture Code, is amended to read as follows:

Sec. 59.003. LIMITED IMMUNITY FROM SUIT OR LIABILITY. A [The authority or a] member of the board may be sued and held personally liable for damages that result from an official act or omission only if the act or omission is corrupt or malicious.

SECTION 6. Section 59.011, Agriculture Code, is amended to read as follows:

Sec. 59.011. BONDS. (a) The board [authority] may provide by order or resolution for the issuance and sale of negotiable bonds authorized by Article III, Section 49-f, of the Texas Constitution. The proceeds from the sale of the bonds constitute the fund.

(b) Subchapter D, Chapter 58, [Agriculture Code] as it relates to the issuance, sale, and refunding of bonds, applies to the board's [authority's] issuance, sale, and refunding of bonds under this chapter to finance the fund.
SECTION 7. Section 59.012, Agriculture Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections (b), (c), and (d) of this section, proceeds from the sale of the bonds, other than refunding bonds, shall be deposited in the state treasury to the credit of the fund.

(c) The board may provide from the proceeds of the sale of bonds or from available money in the fund an amount that is reasonable and necessary to cover the costs of administering the program. That amount shall be deposited in the state treasury to the credit of a special fund to be known as the farm and ranch administrative expense fund.

(d) The board shall deposit the proceeds from the sale of bonds, as authorized by the Texas Constitution, into the Texas agricultural fund, to be administered as provided by Chapter 58 of this code.

SECTION 8. Section 59.013, Agriculture Code, is amended to read as follows:

Sec. 59.013. PAYMENT OF PRINCIPAL AND INTEREST. The board shall arrange for payment of the principal of bonds as they mature and the interest on the bonds as it becomes payable.

SECTION 9. Sections 59.015(a) and (b), Agriculture Code, are amended to read as follows:

(a) The board may use money in the fund attributable to the issuance and sale of bonds to pay:

1. legal fees and fees for financial advice the board finds necessary for the sale of bonds;

2. the expense of publishing notice of sale of an installment of bonds;

3. the expense of printing the bonds;

4. the expense of issuing the bonds, including the actual costs of travel, lodging, and meals of officers, members, or employees of the board, directors or employees of the authority, the comptroller, the state treasurer, or the attorney general that the board finds necessary to implement the issuance, rating, or delivery of the bonds;

5. the cost of manually signing the bonds;

6. remuneration to any agent employed by the board to pay the principal of and interest on the bonds;

7. any amount required to be paid to maintain the federal tax exemption of interest on the bonds;

8. any other cost, fee, or expense relating to the issuance of the bonds.

(b) If, during the existence of the fund or during the period any bonds are payable from the fund, the board determines that there will not be sufficient money in the fund during the following fiscal year to pay the principal of or interest on the bonds that is to come due during the following fiscal year, the comptroller shall transfer to the fund from the first money coming into the state treasury not otherwise appropriated by the constitution an amount sufficient to pay the obligations.
SECTION 10. Section 59.016, Agriculture Code, is amended to read as follows:

Sec. 59.016. INVESTMENTS. [(a)] The board shall invest funds as provided under Section 58.022, [authority shall give timely instruction to the board of the dates on which principal on bonds matures and interest becomes payable. The board shall administer the fund accordingly:

[(b)] Except as provided by Subsection (c) of this section, money in the fund that is not immediately committed to paying principal of and interest on the bonds or to paying expenses as provided by Section 59.015 of this code may be invested by the board in:

[(1)] a direct security repurchase agreement or reverse security repurchase agreement made with a state or national bank domiciled in this state or with a primary dealer approved by the federal reserve system;

[(2)] a direct obligation of or obligation the principal and interest of which are guaranteed by the United States government;

[(3)] a direct obligation of or obligation guaranteed by the Federal Home Loan Banks, the Federal National Mortgage Association, the Federal Farm Credit System, the Student Loan Marketing Association, the Federal Home Loan Mortgage Corporation, or a successor to one of those organizations;

[(4)] a bankers' acceptance that:

[(A)] is eligible for purchase by a member of the federal reserve system;

[(B)] matures in 270 days or less; and

[(C)] is issued by a bank that has received the highest short-term credit rating by a nationally recognized investment rating firm;

[(5)] commercial paper that:

[(A)] matures in 270 days or less; and

[(B)] has received the highest short-term credit rating by a nationally recognized investment rating firm;

[(6)] a contract that is written by the board in which the board grants the purchaser the right to purchase securities in the board's marketable securities portfolio at a specified price over a specified period and for which the board is paid a fee and that specifically prohibits naked option or uncovered option trading;

[(7)] an obligation of a state or of an agency, county, city, or other political subdivision of a state or a mutual fund composed of those obligations;

[(8)] an investment instrument, obligation, or other evidence of indebtedness the payment of which is directly or indirectly guaranteed by the full faith and credit of the United States government;

[(9)] an investment, account, depository receipt, or deposit that is fully:

[(A)] insured by the Federal Deposit Insurance Corporation or a successor to that organization; or

[(B)] secured by a security described by Subdivision (2), (3), or (6) of this subsection;
[(10)] a collateralized mortgage obligation fully secured by 
securities or mortgages issued or guaranteed by the Government National 
Mortgage Association (GNMA) or any entity identified by Subdivision (3) 
of this subsection;
[(11)] a security or evidence of indebtedness issued by the Farm 
Credit System Financial Assistance Corporation, the Private Export 
Funding Corporation, or the Export-Import Bank; and
[(12)] any other investment authorized for investment of state funds 
by the state treasurer under Section 404.024, Government Code:
[(c)] The board may not invest in or purchase obligations of a private 
corporation or other private business entity doing business in the Republic 
of South Africa unless the corporation or other entity:
[(1)] has:
[(A)] adopted the Statement of Principles for South Africa 
as they existed in 1987, as described in the Report on the Signatory 
Companies to the Statement of Principles for South Africa published by 
Arthur D. Little, Inc., Cambridge, Massachusetts, and has obtained a 
performance rating in Category 1 or 2 of the Statement of Principles for 
South Africa rating system as determined by Arthur D. Little, Inc., or
[(B)] agreed to the Code of Conduct that is enforced by the 
United States Department of State under Section 288, Comprehensive 
Anti-Apartheid Act of 1986 (Pub. L. No. 99-440) and has received a 
rating of "Making Satisfactory Progress"; and
[(2)] does not supply strategic products or services for use by the 
government, military, or police of the Republic of South Africa;
[(d)] In this section:
[(1)] "Direct security repurchase agreement" means an agreement 
under which the board buys, holds for a specified time, and then sells back 
any of the following securities, obligations, or participation certificates:
[(A)] a United States government security;
[(B)] a direct obligation of or an obligation the principal 
and interest of which are guaranteed by the United States government;
[(C)] a direct obligation of or an obligation guaranteed 
by the Federal Home Loan Banks, the Federal National Mortgage 
Association, the Federal Farm Credit System, the Student Loan Marketing 
Association, the Federal Home Loan Mortgage Corporation, or a successor 
to any of those organizations; or
[(D)] any other investment instrument, obligation, or other 
evidence of indebtedness the payment of which is directly or indirectly 
guaranteed by the full faith and credit of the United States government:
[(2)] "Doing business in the Republic of South Africa" means 
conducting or performing manufacturing, assembly, or warehousing 
operations in the Republic of South Africa or, in the case of a bank or 
other financial institution, lending money to the government of the 
Republic of South Africa or any of its agencies or instrumentalities;
[(3)] "Market value" means the fair and reasonable prevailing price 
at which a security is being sold on the open market at the time of the 
appraisal of the security by the board:
(4) "Reverse security repurchase agreement" means an agreement under which the board sells and after a specified time buys back any of the securities, obligations, or participation certificates listed by Subdivision (1) of this subsection.

(5) "Strategic products or services" means articles designated as arms, ammunition, or implements of war as provided by 22 C.F.R. Part 121 or data processing equipment or computers sold for military or police use or for use in connection with restriction on travel in the Republic of South Africa by residents of that country.

SECTION 11. Section 59.021, Agriculture Code, is amended by amending Subsections (b), (c), (d), (e), and (h) and by adding Subsection (l) to read as follows:

(b) At the direction of the board [authority], money received from the state or federal government or from any other person, in addition to proceeds from bonds issued under this chapter, may be deposited to the credit of the fund.

(c) The board [authority] may provide for establishing and maintaining separate accounts in the fund, including program accounts, an interest and sinking account, a reserve account, and any other accounts provided for by resolution of the board [authority].

(d) Money received as repayment of financial assistance shall be deposited first in the interest and sinking account as provided by resolution of the board [authority] authorizing its bonds until that account is fully funded as provided by resolution of the board [authority].

(e) The fund and each account in the fund shall be kept and maintained at the direction of the board [authority] and held in trust by the state treasurer for and on behalf of the board [authority] and the owners of the bonds issued under this chapter.

(h) The board [authority] may receive, and shall deposit in the fund, appropriations, grants, donations, earned federal funds, and the proceeds of any investment pools operated by the state treasurer.

(i) The board may use money in the fund to pay the costs and expenses of administering the program.

SECTION 12. Sections 59.022(a) and (c), Agriculture Code, are amended to read as follows:

(a) The board [authority] shall adopt rules governing application for financial assistance under this chapter. The board [authority] may adopt rules it considers necessary to administer the program or considers in the best interest of the program. The board [authority] may adopt rules concerning the sale of land acquired by the board [authority] under this chapter by default, foreclosure, forfeiture, or any other means. The board [authority] shall adopt collateral or security requirements to ensure the full repayment of financial assistance granted under this chapter. The board [authority] may approve any extension of financial assistance under this chapter or may delegate that approval authority to the commissioner.

(c) The board [authority] may set and collect fees the board [authority] considers reasonable and necessary to cover the expenses of administering the program or considers in the best interest of the program. Those fees...
shall be deposited in the state treasury to the credit of the farm and ranch finance program [administrative expense] fund. An applicant for financial assistance participating in the program shall pay the costs of applying for, participating in, and administering and servicing the program, in amounts the board [authority] considers reasonable and necessary. Any cost not paid by an applicant shall be paid from the fund.

SECTION 13. Section 59.023, Agriculture Code, is amended to read as follows:

Sec. 59.023. POWERS OF BOARD [AUTHORITY]. The board [in addition to the powers granted to the authority under Section 58.022 of this code, the authority] has the power necessary to accomplish the purposes and carry out the programs provided by this chapter, including the power:

(1) to adopt and enforce bylaws, rules, and procedures necessary to carry out this chapter;

(2) to establish, charge, and collect a fee, charge, or penalty in connection with a program, service, or activity provided by the board [authority] under this chapter;

(3) to issue bonds, provide for and secure the payment of the bonds, and provide for the rights of the owners of the bonds, in the manner and to the extent permitted by this chapter;

(4) to purchase, hold, cancel, or resell or otherwise dispose of its bonds, subject to any restrictions and any resolution authorizing the issuance of its bonds;

(5) to own, rent, lease, or otherwise acquire, accept, or hold any interest in real, personal, or mixed property, by purchase, exchange, gift, assignment, transfer, foreclosure, mortgage, sale, lease, or otherwise;

(6) to hold, manage, operate, or improve real, personal, or mixed property;

(7) to sell, lease, encumber, mortgage, exchange, donate, convey, or otherwise dispose of any of its property or any interest in its property, deed of trust, or mortgage lien owned by it, under its control or custody, or in its possession and to release or relinquish any right, title, claim, lien, interest, easement, or demand, including any equity or right of redemption in property foreclosed by it, by public or private sale, with or without public bidding;

(8) to lease or rent any improvement, land, or facility from any person;

(9) to make a secured or unsecured loan to provide financial assistance as provided by this chapter, including the refunding of an outstanding obligation, mortgage, or advance used for those purposes, and to charge and collect interest on those loans for loan payments and on terms and conditions the board [authority] considers advisable that are not in conflict with this chapter;

(10) to purchase or acquire, sell, discount, assign, negotiate, or otherwise dispose of notes or other evidence of indebtedness of eligible applicants as the board determines or portions or portfolios of or participations in those evidences of indebtedness; and

(11) to sell and guarantee securities, whether taxable or tax exempt under federal law, in primary and secondary markets.
SECTION 14. Sections 59.025(b) and (c), Agriculture Code, are amended to read as follows:

(b) The board [authority] shall provide by rule for the period during which and the manner in which the down payment provided for under Subsection (a) of this section shall be paid to the board [authority].

(c) If the sale is not consummated, the board [authority] shall refund the down payment to the borrower.

SECTION 15. Section 59.026, Agriculture Code, is amended to read as follows:

Sec. 59.026. TRANSFER OF BORROWER'S INTEREST. (a) The contract for a loan under this chapter must provide that transfer of ownership of the land without the board's [authority's] express written permission before the entire principal and interest due have been paid constitutes default under the contract.

(b) If the borrower dies or becomes financially incapacitated or if the borrower's interest in land is involuntarily transferred by court order or other proceedings, including bankruptcy, sheriff or trustee sale, or divorce, the land may be conveyed by the borrower or the borrower's heirs, administrators, executors, or successors in interest by complying with the rules adopted by the board [authority] and obtaining the board's [authority's] written permission.

SECTION 16. Section 59.027, Agriculture Code, is amended to read as follows:

Sec. 59.027. CHANGES IN USE. (a) Before a borrower may use land acquired with financial assistance under this chapter for a primary purpose other than farming or ranching, the borrower must submit to the board [authority] an application for approval of the change of use.

(b) As soon as practicable after an application for a change of use is received, the board [authority] shall approve or deny the application and shall notify the borrower of the board's [authority's] decision.

(c) The loan contract must provide that using land acquired under this chapter for a purpose other than farming or ranching without the approval of the board [authority] constitutes default under the contract.

SECTION 17. Section 59.028, Agriculture Code, is amended to read as follows:

Sec. 59.028. APPRAISAL. (a) Before the board [authority] may loan money for the purchase of land under this chapter, the board [authority] must have an appraisal of the property made to determine its value.

(b) An appraiser representing the board [authority] must be qualified to give competent appraisals of land. The board [authority] may contract with the board to use appraisers employed by the board.

SECTION 18. Section 59.029, Agriculture Code, is amended to read as follows:

Sec. 59.029. PAYMENTS TO BOARD [AUTHORITY] UNDER CERTAIN LEASES. If, during a period a person is indebted to the board [authority] for land purchased with financial assistance under this chapter, the person executes or there exists a lease or contract of sale of oil, gas, or other minerals, chemicals, hard metals, timber, sand, gravel, or other...
material that covers the land purchased from the board [authority] that would result in the depletion of the corpus of the land, not less than one-half of all bonus money, delay rentals, or royalties received as consideration for or payment under the oil, gas, or mineral lease and not less than one-half of all money received under a lease or contract of sale of other minerals, chemicals, hard metals, timber, sand, gravel, or other material shall be paid to the board [authority] by the lessee under the lease or the buyer under the contract of sale. The board [authority] shall apply those payments to the satisfaction of the indebtedness.

SECTION 19. Section 59.031, Agriculture Code, is amended to read as follows:

Sec. 59.031. DEATH OF A BORROWER. (a) If a borrower receiving financial assistance under this chapter dies while indebted to the state under a contract, the borrower's rights under this chapter and the contract devolve on the borrower's heirs, devisees, or personal representatives under the laws of this state, subject to all rights, claims, and charges of the board [authority].

(b) Default by an heir, devisee, or personal representative with respect to a right, claim, or charge of the board [authority] has the same effect as default by the borrower before the borrower's death.

SECTION 20. Section 59.032, Agriculture Code, is amended to read as follows:

Sec. 59.032. UNENCUMBERED TITLE. The board [authority] may establish a procedure by which a borrower acquiring land with a loan under this chapter may obtain title to a portion of the tract clear of encumbrances.

SECTION 21. This Act takes effect January 1, 1996, but only if the constitutional amendment proposed by the 74th Legislature, Regular Session, 1995, relating to the use of proceeds of bonds issued for financing of farm and ranch land is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

SECTION 22. 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.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to S.B. 1260 by a viva voce vote.

SENATE BILL 1302 WITH HOUSE AMENDMENTS

Senator Cain called S.B. 1302 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.
Floor Amendment No. 1

Amend S.B. 1302 as follows:

1) Strike SECTION 2. page 24 beginning on line 2 and continuing to page 25, line 16.
2) Strike SECTION 3. page 25 beginning on line 17 and continuing to page 30, line 10.
3) Strike SECTION 4. page 30 beginning on line 11 and continuing to page 32, line 19.
4) Renumber SECTION 5. as SECTION 2.

Floor Amendment No. 2

Amend S.B. 1302, SECTION 1, page 11, line 5 by deleting subpart (8) beginning on line 5 and substituting therefore the following:

(8) requesting, receiving and signing for the receipt of pharmaceutical sample prescription medications [professional samples] and distributing the samples to patients in specific practice setting where the physician assistant is authorized to prescribe pharmaceutical medications and sign prescription drug orders at a site serving medically underserved populations as provided by Section 3.06(d)(5) and (6), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and its subsequent amendments, or as otherwise authorized by this act or board rule; [and]

Floor Amendment No. 3

Amend S.B. 1302 as follows:

1) Strike SECTION 2. page 24 beginning on line 2 and continuing to page 25, line 16.
2) Strike SECTION 3. page 25 beginning on line 17 and continuing to page 30, line 10.
3) Strike SECTION 4. page 30 beginning on line 11 and continuing to page 32, line 19.
4) Renumber SECTION 5. as SECTION 2.

The amendments were read.

Senator Cain moved to concur in the House amendments to S.B. 1302.

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

SENATE BILL 1303 WITH HOUSE AMENDMENT

Senator Cain called S.B. 1303 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 on Third Reading

Amend S.B. 1303 on third reading by substituting the following Subsection (4) of Sec. 3.081 in SECTION 2 of the bill for that Subsection (4) therein:
(4) findings of impairment based upon a mental or physical examination offered to establish such impairment in an evidentiary hearing before the Board with opportunity for opposition in full by such individual, or admissions by the individual indication that the licensee or applicant suffers from a potentially dangerous limitation or an inability to practice medicine with reasonable skill and safety by reason of illness or as a result of any physical or mental condition.

The amendment was read.

On motion of Senator Cain and by unanimous consent, the Senate concurred in the House amendment to S.B. 1303 by a viva voce vote.

HOUSE BILL 1208 ON SECOND READING

On motion of Senator Sibley 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. 1208, Relating to the economic development of tourism through the limitation of liability of passenger excursion trains.

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

HOUSE BILL 1208 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1208 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 a viva voce vote.

HOUSE BILL 3227 ON SECOND READING

On motion of Senator Montford 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. 3227, Relating to creation of the County Court at Law No. 2 of Tom Green County.

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

HOUSE BILL 3227 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 3227 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 a viva voce vote.
SENATE BILL 1675 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 1675 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

Amend S.B. 1675 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to powers and duties of the Health and Human Services Commission.

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

SECTION 1. Section 10, Article 4413(502), Revised Statutes, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) All health and human services agencies shall submit strategic plans and biennial updates to the commission on a date to be determined by commission rule. The commission shall review and comment on the strategic plans and biennial updates.

(e) Not later than January 1 of each even-numbered year, the commission shall begin formal discussions with each health and human services agency regarding that agency's strategic plan or biennial update.

SECTION 2. Section 12, Article 4413(502), Revised Statutes, is amended to read as follows:

Sec. 12. PUBLIC INPUT [INTEREST] INFORMATION AND COMPLAINTS. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(b) The commission shall develop and implement routine and ongoing mechanisms, in accessible formats:

(1) to receive consumer input; and

(2) to involve consumers in planning, delivery, and evaluation of programs and services under the jurisdiction of the commission.

(c) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(d) [ee] The commissioner by rule shall establish methods by which the public, consumers, and service recipients can be notified of the mailing addresses and telephone numbers of appropriate agency personnel for the purpose of directing complaints to the commission. The commission may provide for that notification:
(1) on each registration form, application, or written contract for services of a person or entity regulated by the commission;

(2) on a sign prominently displayed in the place of business of each person or entity regulated by the commission; or

(3) in a bill for service provided by a person or entity regulated by the commission.

d) The commission shall keep an information file about each complaint filed with the commission relating to:

(1) a license holder or entity regulated by the commission; or

(2) a service delivered by the commission.

e) If a written complaint is filed with the commission relating to a license holder or entity regulated by the commission or a service delivered by the commission, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

SECTION 3. Section 13, Article 4413(502), Revised Statutes, is amended by adding Subsection (d) to read as follows:

d) A health and human services agency may not submit to the legislature or the governor its legislative appropriations request until the commission reviews and comments on the legislative appropriations request.

SECTION 4. Article 4413(502), Revised Statutes, is amended by adding Sections 13A, 13B, 13C, and 13D to read as follows:

Sec. 13A. HEALTH AND HUMAN SERVICES AGENCIES OPERATING BUDGETS. (a) In addition to the provisions of the General Appropriations Act, the commission shall review and comment on:

(1) the annual operating budget of each health and human services agency; and

(2) the transfer of funds between budget strategies made by each health and human services agency prior to the transfer of the funds.

(b) The commission shall issue a report, on a quarterly basis, regarding the projected expenditures by budget strategy of each health and human services agency compared to each agency's operating budget.

Sec. 13B. FEDERAL FUNDS. notwithstanding any other state law and to the extent permitted by federal law, the commission may review and comment on an operational or funding plan or a modification to that plan prepared by a health and human services agency designated as the single state agency to administer federal funds.

Sec. 13C. AUTOMATED SYSTEMS. A health and human services agency may not submit its plans to the Department of Information Resources under Subchapter E, Chapter 2054, Government Code, until those plans are approved by the commission.

Sec. 13D. COORDINATION AND APPROVAL OF CASELOAD ESTIMATES. (a) The commission shall coordinate and approve caseload estimates made for programs administered by health and human services agencies.
(b) To implement this section, the commission shall:
(1) adopt uniform guidelines to be used by health and human services agencies in estimating their caseloads, with allowances given for those agencies for which exceptions from the guidelines may be necessary;
(2) assemble a single set of economic and demographic data and provide that data to each health and human services agency to be used in estimating its caseloads; and
(3) seek advice from health and human services agencies, the Legislative Budget Board, the governor's budget office, the comptroller, and other relevant agencies as needed to coordinate the caseload estimating process.

(c) The commission shall assemble caseload estimates made by health and human services agencies into a coherent, uniform report and shall update the report quarterly, with assistance from those agencies. The commission shall publish the report and make it readily available to state and local agencies and interested private organizations.

(d) In the report prepared under Subsection (c) of this section, the commission shall explain the caseload estimates using monthly averages, annual unduplicated recipients, annual service usage, and other commonly used measures.

(e) The commission shall attach a copy of the report prepared under Subsection (c) of this section to the consolidated health and human services budget recommendation submitted to the Legislative Budget Board under Section 13 of this article and shall also submit the report to the legislature when it convenes in regular session.

SECTION 5. Section 14, Article 4413(502), Revised Statutes, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The commissioner shall:
(1) arbitrate and render the final decision on interagency disputes;
(2) facilitate and enforce coordinated planning and delivery of health and human services, including compliance with the coordinated strategic plan, co-location of services, integrated intake, and coordinated referral and case management;
(3) request budget execution for the transfer of funds from one agency to another;
(4) establish a federal health and human services funds management system and maximize the availability of those funds;
(5) develop with the Department of Information Resources automation standards for computer systems to enable health and human services agencies to share pertinent data;
(6) establish and enforce uniform regional boundaries for all health and human services agencies;
(7) carry out statewide health and human services needs surveys and forecasting;
(8) perform independent special outcome evaluations of health and human services programs and activities;
(9) adopt rules necessary to carry out the commission's duties under this Act; and

(10) review and comment on health and human services agency formulas [develop a formula] for the distribution of funds to ensure that the formulas, to the extent permitted by federal law, consider [considers] such need factors as client base, population, and economic and geographic factors within the regions of the state.

(d) Not later than the end of the first month of each fiscal year the commissioner shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the Legislative Budget Board a work plan outlining the activities of the commission for that fiscal year. The work plan must establish priorities for the commission's activities based on available resources.

SECTION 6. Article 4413(502), Revised Statutes, is amended by adding Section 14A to read as follows:

Sec. 14A. DELIVERY OF SERVICES. To integrate and streamline service delivery and facilitate access to services, the commissioner may request a health and human services agency to take a specific action and may recommend the manner in which the streamlining is to be accomplished, including requesting each health and human services agency to:

(1) simplify agency procedures;
(2) automate agency procedures;
(3) coordinate service planning and management tasks between and among health and human services agencies;
(4) reallocate staff resources;
(5) adopt rules;
(6) amend, waive, or repeal existing rules; and
(7) take other necessary actions.

SECTION 7. Article 4413(502), Revised Statutes, is amended by adding Section 23 to read as follows:

Sec. 23. USE OF AGENCY STAFF. To the extent requested by the commission, a health and human services agency shall assign existing staff to perform a function under this article.

SECTION 8. Article 4413(502), Revised Statutes, is amended by adding Section 24 to read as follows:

Sec. 24. REPORTS ON DELIVERY OF SERVICES. (a) Each executive head of a health and human services agency shall report quarterly to the governing body of that agency on that agency's efforts to streamline and simplify the delivery of services. The agency shall submit a copy of the report to the commission.

(b) The commission shall prepare and deliver a semiannual report to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, the Legislative Budget Board, and appropriate legislative committees on the efforts of the health and human services agencies to streamline the delivery of services provided by those agencies.

(c) The commissioner shall adopt rules relating to the reports required by Subsection (a) of this section, including rules specifying when and in
what manner an agency must report and what information must be included in the report. Each agency shall follow the rules adopted by the commissioner under this section.

SECTION 9. Section 3.08, Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991 (Article 4413(505), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.08. LOCATION [CO-LOCATION] OF OFFICES AND FACILITIES. (a) As leases on office space expire, the commission shall determine the needs for space and the location of health and human services agency offices to enable the commission to achieve a cost-effective one-stop or service center method of health and human service delivery. The administrative heads of the health and human service agencies shall review the agencies' current office and facility arrangements and study the feasibility of co-locating offices or facilities located in the same geographic area and shall report back to the commission not later than September 1, 1992.

(b) [On receiving approval from the commission, the administrative heads of two or more health and human service agencies with offices or facilities located in the same geographic region shall co-locate the offices or facilities if the results of the study conducted under this section show that client access would be enhanced, the cost of co-location is not greater than the combined operating costs of the separate offices or facilities of those agencies, and the co-location would improve the efficiency of the delivery of services:

(c) In this section, "health and human service agencies" includes the:
(1) Interagency Council on Early Childhood Intervention Services;
(2) Texas Department on Aging;
(3) Texas Commission on Alcohol and Drug Abuse;
(4) Texas Commission for the Blind;
(5) Texas Commission for the Deaf and Hearing Impaired;
(6) Texas Department of Health;
(7) Texas Department of Human Services;
(8) Texas Juvenile Probation Commission;
(9) Texas Department of Mental Health and Mental Retardation;
(10) Texas Rehabilitation Commission; and
(11) Department of Protective and Regulatory Services.

SECTION 10. Section 6.031(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Notwithstanding any other provision of this article, the [The] commission may not lease office space to service the needs of any [a single] health and human service agency unless the Health and Human Services Commission has approved the office space for the agency [agency can provide the commission with a reason for not sharing the office space with one or more other health and human service agencies].

SECTION 11. (a) The Health and Human Services Commission shall expand its existing integrated eligibility pilot programs to include the Harris County Hospital District and The University of Texas Medical Branch at Galveston.
(b) A contract with the Harris County Hospital District or The University of Texas Medical Branch at Galveston shall:
   (1) specify performance-based measures to ensure error rates are kept within acceptable federal limits;
   (2) assure that the contractor assumes all liability for any penalty incurred as a result of failure to meet federal standards; and
   (3) authorize the district and the medical branch to simplify processes as much as possible and to use proprietary software.

(c) Subject to approval by the Health and Human Services Commission, the Texas Department of Human Services shall establish standards for other automated systems to allow other entities to file information directly.

(d) The Health and Human Services Commission shall study the feasibility of enabling contractors or agencies other than the Texas Department of Human Services to provide or assist in the provision of client eligibility studies, determinations, and certifications. In determining feasibility, the commission shall consider:
   (1) error rates;
   (2) the state's potential liability;
   (3) expansion of the client population; and
   (4) the federal single state agency restrictions.

SECTION 12. (a) Not later than September 1, 1996, the Health and Human Services Commission, subject to the availability of funds to the commission and to health and human services agencies, shall have completed the development and substantial implementation of a plan for an integrated eligibility determination and service delivery system for health and human services at the local and regional levels. The plan shall specify the dates by which all elements of the plan must be implemented.

(b) The integrated eligibility determination and service delivery system shall be developed and implemented to achieve at least a one-percent savings in the cost of providing administrative and other services and staff resulting from streamlining and eliminating duplication of services. The commission shall use the resulting savings to further develop the integrated system and to provide other health and human services.

(c) The commission shall examine cost-effective methods to address:
   (1) fraud in the assistance programs; and
   (2) the error rate in eligibility determination.

(d) In consultation and coordination with the State Council on Competitive Government, the commission shall make and implement recommendations on services or functions of the integrated eligibility determination and service delivery system that could be provided more effectively through the use of competitive bidding or by contracting with local governments and other appropriate entities. If the commission determines that private contracting may be effective, the commission may automate the determination of client eligibility by contracting with a private firm to conduct application processing.

(e) Not later than October 1, 1996, the commission shall develop a plan to consolidate administrative and service delivery functions in addition
to the integrated eligibility determination and service delivery system in order to minimize duplication. The commission shall prepare a report of the plan for submission to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the 75th Legislature when it convenes.

SECTION 13. (a) Not later than September 1, 1997, the Health and Human Services Commission shall develop, using existing state, local, and private resources, an integrated approach to the health and human service delivery system that includes a cost-effective one-stop or service center method of delivery to a client. The commission shall determine the feasibility of using hospitals, schools, mental health and mental retardation centers, health clinics, commercial locations in malls, and other appropriate locations to achieve this integrated approach.

(b) The health and human services agencies shall cooperate with the commission in developing the integrated eligibility determination and service delivery system.

(c) This section expires September 1, 1997.

SECTION 14. The changes in law made by this Act apply beginning with appropriations made for the fiscal year beginning September 1, 1995.

SECTION 15. This Act takes effect September 1, 1995.

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.

Floor Amendment No. 1

Amend C.S.S.B. 1675, section 11(b)(3) line 20 by removing the word "proprietary" between the words "use" and "software".

Floor Amendment No. 2

Amend C.S.S.B. 1675 by adding the following new subsection 12(b)(3) on page 2, between lines 4 and 5:

(3) to communicate to the public on the input received and actions taken in response.

Floor Amendment No. 3

Amend C.S.S.B. 1675 by adding the following new subsection 11(e) on page 11, between lines 8 and 9:

(e) If more than one state agency is directed to perform any study in this section, the agencies involved shall sign a memorandum of understanding to prevent duplication of efforts and costs to the state.

The amendments were read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendments to S.B. 1675 by a viva voce vote.

SENATE BILL 1485 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 1485 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.

Floor Amendment No. 1

Amend S.B. 1485 as follows:

(1) In Section 264.501, Family Code, as added by SECTION 1 of the bill, insert a new Subdivision (1) (House committee report, page 1, between lines 8 and 9) to read as follows and renumber subsequent subdivisions of Section 264.501 appropriately:

(1) "Autopsy" and "inquest" have the meanings assigned by Section 49.01, Code of Criminal Procedure.

(2) Following Section 264.512, Family Code, as added by SECTION 1 of the bill (House committee report, page 14, between lines 1 and 2), insert the following:

Sec. 264.513. REPORT OF DEATH OF CHILD. (a) A person who knows of the death of a child younger than six years of age shall immediately report the death to the medical examiner of the county in which the death occurs or, if the death occurs in a county that does not have a medical examiner's office or that is not part of a medical examiner's district, to a justice of the peace in that county.

(b) The requirement of this section is in addition to any other reporting requirement imposed by law, including any requirement that a person report child abuse or neglect under this code.

(c) A person is not required to report a death under this section that is the result of a motor vehicle accident. This subsection does not affect a duty imposed by another law to report a death that is the result of a motor vehicle accident.

Sec. 264.514. PROCEDURE IN THE EVENT OF REPORTABLE DEATH. (a) A medical examiner or justice of the peace notified of a death of a child under Section 264.513 shall hold an inquest under Chapter 49, Code of Criminal Procedure, to determine whether the death is unexpected.

(b) The medical examiner or justice of the peace shall immediately notify an appropriate local law enforcement agency if the medical examiner or justice of the peace determines that the death is unexpected, and that agency shall investigate the child's death.

Sec. 264.515. INVESTIGATION. (a) The investigation required by Section 264.514 must include:

(1) an autopsy, unless an autopsy was conducted as part of the inquest;

(2) an inquiry into the circumstances of the death, including an investigation of the scene of the death and interviews with the parents of the child, any guardian or caretaker of the child, and the person who reported the child's death; and

(2) a review of relevant information regarding the child from an agency, professional, or health care provider.

(b) The review required by Subsection (a)(3) must include a review of any applicable medical record, child protective services record, record
maintained by an emergency medical services provider, and law enforcement report.

(c) The committee shall develop a protocol relating to investigation of an unexpected death of a child under this section. In developing the protocol, the committee shall consult with individuals and organizations that have knowledge and experience in the issues of child abuse and child deaths.

SECTION 2. Article 49.04(a), Code of Criminal Procedure, is amended to read as follows:

(a) A justice of the peace shall conduct an inquest into the death of a person who dies in the county served by the justice if:
   (1) the person dies in prison or in jail;
   (2) the person dies an unnatural death from a cause other than a legal execution;
   (3) the body of the person is found and the cause or circumstances of death are unknown;
   (4) the circumstances of the death indicate that the death may have been caused by unlawful means;
   (5) the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide;
   (6) the person dies without having been attended by a physician;
   (7) the person dies while attended by a physician who is unable to certify the cause of death and who requests the justice of the peace to conduct an inquest; or
   (8) the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code.

SECTION 3. Article 49.10(e), Code of Criminal Procedure, is amended to read as follows:

(e) A justice of the peace shall order an autopsy performed on a body if:
   (1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death; or
   (2) the deceased was a child younger than six years of age and the death was reported under Chapter 264, Family Code; or
   (3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.

SECTION 4. Section 6, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 6. DEATH INVESTIGATIONS. Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:

1. When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;
2. When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;

3. When the body of a human being is found, and the circumstances of his death are unknown;

4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;

5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;

6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest;

7. When the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code; and

8. When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Section 193.004, Health and Safety Code. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.

The inquests authorized and required by this Article shall be held by the medical examiner of the county in which the death occurred.

In making such investigations and holding such inquests, the medical examiner or an authorized deputy may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the medical examiner or authorized deputy shall take charge of the body and all property found with it.

SECTION 5. The child fatality review team committee shall develop the protocol required by Section 264.515(c), Family Code, as added by this Act, not later than September 1, 1996.

(3) Strike Section 3 of the bill.

(4) Renumber sections of the bill appropriately.

Amendment No. 2

Amend S.B. 1485 as follows:

(1) On page 12 insert the following subdivision between lines 9 and 10: (c) This section does not authorize the release of the original or copies of the mental health or medical records of any member of the child's family, guardian or caretaker of the child or an alleged or suspected
perpetrator of abuse or neglect of the child which are in the possession of any state or local government agency as provided in Subdivision (2). Information relating to the mental health or medical condition of a member of the child's family, guardian or caretaker of the child or the alleged or suspected perpetrator of abuse or neglect of the child acquired as part of an investigation by a state or local government agency as provided in Subdivision (2) may be provided to the review team.

The amendments were read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendments to S.B. 1485 by a viva voce vote.

SENATE BILL 1487 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 1487 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.

Floor Amendment No. 1

Amend S.B. 1487 by striking all below the enacting clause and substituting:

SECTION 1. Section 162.308, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 162.308. RACE OR ETHNICITY. (a) The department, a county child-care or welfare unit, or a licensed child-placing agency may not make an adoption placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child [deny or delay placement of a child for adoption or otherwise discriminate on the basis of the race or ethnicity of the child or the prospective adoptive parents].

(b) Unless an independent psychological evaluation specific to a child indicates that placement with a family of a particular race or ethnicity would be detrimental to the child, the department, county child-care or welfare unit, or licensed child-placing agency may not deny, delay, or prohibit the adoption of a child because the department, county, or agency is attempting to locate a family of a particular race or ethnicity.

(c) This section does not prevent or limit the recruitment of minority families as adoptive families, but the recruitment of minority families may not be a reason to delay placement of a child with an available family of a race or ethnicity different from that of the child.

(d) A state or county employee who violates this section is subject to immediate dismissal. A licensed child-placing agency that violates this section is subject to action by the licensing agency as a ground for revocation or suspension of the agency's license.

(e) The department by rule shall define what constitutes a delay under Subsections (b) and (c).
A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this section by issuing appropriate orders. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An application or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reasonable attorney's fees.

SECTION 2. Section 264.108, Family Code, as added by H.B. 655, Acts of the 74th Legislature Regular Session, 1995, is amended to read as follows:

Sec. 264.108. RACE OR ETHNICITY. (a) The department may not make a foster care placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child [prohibit or delay the placement of a child in foster care or remove a child from foster care or otherwise discriminate on the basis of race or ethnicity of the child or the foster family].

(b) Unless an independent psychological evaluation specific to a child indicates that placement or continued living with a family of a particular race or ethnicity would be detrimental to the child, the department may not:

(1) deny, delay, or prohibit placement of a child in foster care because the department is attempting to locate a family of a particular race or ethnicity;

(2) remove a child from foster care with a family that is of a race or ethnicity different from that of the child.

(c) The department may not remove a child from foster care with a family that is of a race or ethnicity different from that of the child for the sole reason that continued foster care with that family may:

(1) strengthen the emotional ties between the child and the family;

or

(2) increase the potential of the family's desire to adopt the child because of the amount of time the child and the family are together.

(d) This section does not prevent or limit the department's recruitment of minority families as foster care families, but the recruitment of minority families may not be a reason to delay placement of a child in foster care with an available family of a race or ethnicity different from that of the child.

(e) An employee who violates this section is subject to immediate dismissal.

(f) The department by rule shall define what constitutes a delay under Subsections (b) and (d).

(g) A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this
section by issuing appropriate orders. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An applicant or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reasonable attorney’s fees.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 2

Amend Amendment No. 1 to S.B. 1487 as follows:
(1) On page 2, strike all that appears on lines 9 and 10.
(2) On page 2, line 11, strike "ill" and substitute in lieu thereof "(o".

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to S.B. 1487.

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

SENATE BILL 1545 WITH HOUSE AMENDMENT

Senator Henderson called S.B. 1545 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.

Floor Amendment No. 1

Amend S.B. 1545 as follows:
On page 2, line 4, after "units" and before the period add "after determining that the sum of all outstanding tax and municipal claims against the property plus the estimated costs of a standard judicial foreclosure exceed the anticipated proceeds from a tax sale."

The amendment was read.

Senator Henderson moved to concur in the House amendment to S.B. 1545.

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

SENATE BILL 1453 WITH HOUSE AMENDMENTS

Senator Rosson called S.B. 1453 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.
Floor Amendment No. 1

Amend S.B. 1453 (House committee report) by renumbering Sections 2 and 3 as Sections 3 and 4 and adding a new Section 2 to read as follows:

SECTION 2. Section 323.014, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The council may consider the needs of persons with disabilities when making decisions regarding the formats in which information is made available under this chapter.

Floor Amendment No. 2

Amend S.B. 1453 by adding an appropriately numbered section to read as follows:

SECTION . Chapter 323, Government Code, is amended by adding Section 323.018 to read as follows:

Sec. 323.018. RECORDS OF DRAFTING AND OTHER REQUESTS. Records relating to requests of council staff for the drafting of proposed legislation, or for assistance, information, advice, or opinion, are not public information.

Floor Amendment No. 3

Amend S.B. 1453 by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION . Chapter 306, Government Code, is amended by adding Sections 306.005 and 306.006 to read as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may not use audio or video materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising.

(b) After a formal hearing held as provided by Subchapter E, Chapter 571, the Texas Ethics Commission may impose a civil penalty against a person who violates this section. The amount of the penalty may not exceed $5,000 for each violation.

(c) Subsection (a) does not prohibit describing or quoting the verbal content of the audio or video materials in political advertising.

(d) In this section, "political advertising" has the meaning assigned by Section 251.001, Election Code.

Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS. (a) A person may not use audio or video materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature for a commercial purpose unless the legislative entity that produced the audio or video materials or under whose direction the audio or video materials were produced gives its permission for the person's commercial use and:

(1) the person uses the audio or video materials only for educational or public affairs programming, including news programming, that does not also constitute a use prohibited under Section 306.005; or
(2) the person transmits to paid subscribers an unedited feed of the audio or visual materials.

(b) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class C misdemeanor.

(c) The legislative entity that produced the audio or video materials or under whose direction the audio or video materials were produced shall give its permission to a person to use the materials for a commercial purpose described by Subsection (a)(1) if the person or the person's representative submits to the legislative entity a signed, written request for the use that:

(1) states the purpose for which the audio or video materials will be used, and the stated purpose is allowed under Subsection (a)(1); and

(2) contains an agreement by the person that the audio or visual materials will not be used for a commercial purpose other than the stated purpose.

(d) The legislative entity is not required to give its permission to any person to use the materials for a purpose described by Subsection (a)(2) and may limit the number of persons to whom it gives its permission to use the materials for a purpose described by Subsection (a)(2).

(e) Subsection (a) and an agreement under Subsection (c)(2) do not prohibit compiling, describing, quoting from, analyzing, or researching the verbal content of the audio or visual materials for a commercial purpose.

(f) In addition to the criminal penalty that may be imposed under Subsection (b), the attorney general shall enforce this section at the request of the legislative entity by bringing a civil action to enjoin a violation of Subsection (a) or of an agreement under Subsection (c)(2).

(g) In this section, "commercial purpose" means a purpose that is intended to result in a profit or other tangible benefit.

The amendments were read.

On motion of Senator Rosson and by unanimous consent, the Senate concurred in the House amendments to S.B. 1453 by a viva voce vote.

SENATE BILL 1388 WITH HOUSE AMENDMENTS

Senator Rosson called S.B. 1388 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.

Floor Amendment No. 1

Amend S.B. 1388 by striking SECTION 2 of the bill (committee printing page 28, line 12), and substituting the following:

SECTION 2. This Act takes effect September 1, 1997.

Floor Amendment No. 1 on Third Reading

Amend S.B. 1388 on third reading by striking Section 2 of the bill (the effective date section) as amended on second reading and substituting the following:
SECTION 2. (a) This Act takes effect September 1, 1995.
(b) A confirmation election may not be held under Section 5, Article 1118z-1, Revised Statutes, as enacted by this Act, before September 1, 1997.

The amendments were read.

On motion of Senator Rosson and by unanimous consent, the Senate concurred in the House amendments to S.B. 1388 by a viva voce vote.

SENATE BILL 1428 WITH HOUSE AMENDMENTS

Senator Cain called S.B. 1428 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

Amend S.B. 1428 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to abolishing certain state governmental entities.

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

ARTICLE 1. ABOLITION OF THE ADVISORY BOARD
TO THE BILL BLACKWOOD LAW ENFORCEMENT
MANAGEMENT INSTITUTE OF TEXAS

SECTION 1.01. The Bill Blackwood Law Enforcement Management Institute of Texas advisory board is abolished.

SECTION 1.02. Section 96.64, Education Code, is amended to read as follows:

Sec. 96.64. BILL BLACKWOOD LAW ENFORCEMENT
MANAGEMENT INSTITUTE OF TEXAS. (a) [as in this section "board"
means the advisory board of the institute:

(b)] The Bill Blackwood Law Enforcement Management Institute of Texas is created for the training of police management personnel. The headquarters of the institute are at Sam Houston State University. The institute is under the supervision and direction of the president of Sam Houston State University and shall be operated and managed as a joint program between Sam Houston State University, Texas A&M University, and Texas Woman's University.

(c) The institute's advisory board is composed of nine members appointed as follows:

(1) one by the governor, who must be a licensed peace officer with supervisory experience;
(2) one by the lieutenant governor, who must be a licensed peace officer with supervisory experience;
(3) one by the speaker of the house of representatives, who must be a licensed peace officer with supervisory experience;
(4) one the president of Sam Houston State University;
(5) one by the president of Texas A&M University;
(6) one by the president of Texas Woman's University; and
(7) three by the Commission on Law Enforcement Officer Standards and Education, two of whom must be licensed, nonsupervisory peace officers;

(6) Appointments to the board shall be made without regard to the race, color, religion, sex, handicap, or national origin of the appointee;

(6) The commissioner of higher education of the Texas Higher Education Coordinating Board, the commissioner of the Central Education Agency, the director of the Department of Public Safety of the State of Texas, the executive director of the criminal justice division of the office of the governor, and the attorney general shall serve as nonvoting ex officio members of the board;

(6) To be eligible for appointment to the board, a person must be at least 21 years of age and a resident of this state. Each appointee must be of good character and may not have been convicted of a felony or a misdemeanor involving moral turpitude. Each appointee must have relevant experience and knowledge of law enforcement. It is a ground for removal from the board if a member does not have at the time of appointment the qualifications required for appointment to the board or does not maintain during service on the board the qualifications required for appointment to the board;

(6) Members of the board hold office for two-year terms, with each member's term expiring February 1 of each odd-numbered year. If a vacancy occurs during a term, the individual who appointed the member who has vacated the board position shall appoint a replacement who meets the qualifications of the vacated office to serve the unexpired portion of the term. A member may not serve more than three full terms;

(6) The board shall elect a chairman, a vice chairman, and a secretary from the appointed members at its first meeting after new appointments to fill regular terms. The board shall meet at least once in each calendar quarter and may meet at other times as necessary to perform the duties of the board. Five of the appointed members constitute a quorum;

(6) A member serves without compensation for service on the board but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board;

(6) The board shall advise the president on issues related to the operation of the institute, including curriculum, admission standards, scholarship criteria, certification standards for classes taught through the institute, and the location of the institute's campuses. The president may assign additional advisory duties to the board.] The president may establish rules relating to the institute [but the president may not establish a rule before reviewing any recommendation relating to that rule made by the board. The board shall submit reports to the president relating to the operation of the institute as prescribed by the president].

(6) The president [with the advice of the board] shall establish reasonable charges for participation in institute training programs by participants who are not residents of this state. The participation costs of
participants who are residents, including tuition, books, room, board, and travel costs, shall be paid from the Bill Blackwood Law Enforcement Management Institute of Texas fund. Participation in the institute training programs is open to every eligible resident of this state, whether or not the person is sponsored by an employing law enforcement agency.

(d) The Bill Blackwood Law Enforcement Management Institute of Texas fund is in the state treasury. The president shall use the fund in administering the institute.

ARTICLE 2. ABOLITION OF BEACH STUDY COMMITTEE
SECTION 2.01. The beach study committee is abolished.
SECTION 2.02. Subchapter G, Chapter 61, Natural Resources Code, is repealed.

ARTICLE 3. ABOLITION OF TEXAS CHILDREN 2000 ORGANIZATIONAL COMMITTEE
SECTION 3.01. The Texas Children 2000 Organizational Committee is abolished.
SECTION 3.02. Chapter 78, Human Resources Code, is repealed.

ARTICLE 4. ABOLITION OF JOINT INTERIM COMMITTEE ON THE TEXAS CULTURAL ENDOWMENT FUND
SECTION 4.01. The joint interim committee on the Texas Cultural Endowment Fund is abolished.
SECTION 4.02. Section 7(b), Chapter 951, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

ARTICLE 5. ABOLITION OF TEXAS HIGH-SPEED RAIL AUTHORITY
SECTION 5.01. The Texas High-Speed Rail Authority is abolished.
SECTION 5.02. The Texas High-Speed Rail Act (Article 6674v.2, Revised Statutes) is repealed.
SECTION 5.03. The transfer of the powers and duties of the Texas High-Speed Rail Authority as provided by Article 4, Chapter 7, Acts of the 72nd Legislature, 1st Called Session, 1991, does not take effect.
SECTION 5.04. All unobligated funds of the Texas High-Speed Rail Authority are transferred to the general revenue fund.

ARTICLE 6. ABOLITION OF TEXAS PARTNERSHIP FOR ECONOMIC DEVELOPMENT
SECTION 6.01. The Texas Partnership for Economic Development is abolished. If the partnership has been organized as a nonprofit corporation, the partnership may continue to exist after the effective date of this Act only for the purposes of dissolving and of disposing of any unencumbered assets in accordance with law. If the partnership has not been organized as a nonprofit corporation, any unencumbered assets of the partnership, including property and records, are transferred to the Texas Department of Commerce.
SECTION 6.02. Subchapter Z, Chapter 481, Government Code, is repealed.

ARTICLE 7. ABOLITION OF EDWARDS AQUIFER LEGISLATIVE OVERSIGHT COMMITTEE
SECTION 7.01. The Edwards Aquifer Legislative Oversight Committee is abolished.
SECTION 7.02. Section 3.01, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

ARTICLE 8. ABOLITION OF EDUCATIONAL ECONOMIC POLICY CENTER

SECTION 8.01. The Educational Economic Policy Center is abolished.

SECTION 8.02. Sections 11.271(d) and (h), Education Code, are amended to read as follows:

(d) Each fiscal year, the board, after deducting the cost of administration not to exceed an amount set by appropriation, shall make disbursements from the public education development fund to [the Educational Economic Policy Center in a total amount approved by the Legislative Budget Board. The board shall disburse the remainder of the fund to] eligible school campuses.

(h) From funds appropriated for the public education development fund, the comptroller shall issue warrants to [the Educational Economic Policy Center and to] each eligible school campus's school district in the amount certified by the board to the comptroller.

SECTION 8.03. Section 11.271(i), Education Code, is repealed.

SECTION 8.04. Subchapter C, Chapter 34, Education Code, is repealed.

ARTICLE 9. ABOLITION OF ENVIRONMENTAL ADVISORY COMMITTEE TO THE TEXAS DEPARTMENT OF TRANSPORTATION

SECTION 9.01. The environmental advisory committee to the Texas Department of Transportation is abolished.

SECTION 9.02. Section 2, Article 6673g, Revised Statutes, as added by Section 17, Chapter 551, Acts of the 72nd Legislature, Regular Session, 1991, is repealed.

ARTICLE 10. ABOLITION OF GATEWAY STATE PARK BOARD

SECTION 10.01. The Gateway State Park Board is abolished.

SECTION 10.02. Section 22.243, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.243. POWERS AND DUTIES OF DEPARTMENT [BOARD]. [(a)] The [board shall lease Gateway State Park from the] department [and] shall operate and maintain the park as a state park. The department [may provide funds to the board for the operation and maintenance of the park: [(b)] The board] may:

(1) set and charge reasonable fees for entrance to the park and for any other services as appropriate;
(2) grant concessions and leases in the park;
(3) hire personnel necessary to perform its duties under this subchapter;
(4) establish and enforce rules and regulations for use of the park;
(5) lease portions of the park and contract for mineral, agricultural, or any other purposes; and
(6) retain all fees, charges, rentals, concession proceeds, and other revenues generated in the park from any source for use in the park for operation, maintenance, policing, or capital improvements.
SECTION 10.03. Section 22.241(d), Parks and Wildlife Code, is repealed.
SECTION 10.04. Section 22.242, Parks and Wildlife Code, is repealed.

ARTICLE 11. ABOLITION OF TEXAS HAZARDOUS MATERIALS SAFETY COUNCIL
SECTION 11.01. The Texas Hazardous Materials Safety Council is abolished.
SECTION 11.02. Chapter 504, Health and Safety Code, is repealed.

ARTICLE 12. ABOLITION OF TEXAS INCENTIVE AND PRODUCTIVITY COMMISSION
SECTION 12.01. The Texas Incentive and Productivity Commission and the productivity bonus program are abolished.
SECTION 12.02. The chapter heading for Chapter 2108, Government Code, is amended to read as follows:

CHAPTER 2108. STATE EMPLOYEE INCENTIVE PROGRAM
[AND AGENCY PRODUCTIVITY]

SECTION 12.03. Subchapter B, Chapter 2108, Government Code, is amended to read as follows:

SUBCHAPTER B. STATE EMPLOYEE INCENTIVE PROGRAM
Sec. 2108.001 [2108.821]. DEFINITIONS. In this chapter:
(1) "Agency coordinator" means a state employee who is designated by the executive director of the employee's agency to act as the liaison for purposes of this chapter between that agency and the governor's office.
(2) "Award" means a bonus or certificate of appreciation.
(3) "Bonus" means a monetary award that is granted to a state employee in payment for an employee suggestion.
(4) "Certificate of appreciation" means a nonmonetary award that is granted to a state employee in recognition of an employee suggestion.
(5) "Incentive program" means the state employee incentive program.
(6) "State agency" means a department, commission, board, office, or other agency in the executive or judicial branch of government that is created under the constitution or a statute of this state.
(7) "State employee" means an employee of a state agency and does not include an elected or appointed agency official.

Sec. 2108.002 [2108.822]. STATE EMPLOYEE INCENTIVE PROGRAM. (a) The state employee incentive program is administered by the governor's office.
(b) The purposes of the state employee incentive program are to:
(1) reduce state expenditures, increase state revenues, and improve the quality of state services; and
(2) recognize the contributions made by certain state employees in achieving the goals described in Subdivision (1).
(c) [reb] An employee may be compensated for a suggestion under the incentive program only as provided by this chapter.

Sec. 2108.003 [2108.023]. AWARDS. (a) From funds appropriated or otherwise available for this purpose, the governor's office
may grant an award to an eligible state employee who makes a suggestion that:

(1) reduces state expenditures, increases state revenues, increases agency productivity, or improves the quality of state services; and

(2) is approved and implemented.

(b) The governor's office [commission] may grant an award, and the comptroller may transfer funds under this chapter [subchapter], before the end of the first year in which a suggestion is implemented.

(c) An award or transfer of funds must be computed on the net annual actual or projected savings or increased revenues, including savings or increased revenues that result from increased productivity, that are certified by the affected state agency and the governor's office [commission].

(d) An employee is eligible for a bonus of 10 percent of the net savings or revenue increases, not to exceed an award of $5,000, if the employee's suggestion results in savings or increased revenues, including savings or increased revenues that result from increased productivity, that:

(1) can be computed using a cost-benefit analysis; and

(2) equal or exceed $100 after implementation costs.

(e) An employee is not eligible for a bonus but may be recognized by a certificate of appreciation if the employee's suggestion results in:

(1) intangible savings or benefits that cannot be computed using a cost-benefit analysis; or

(2) a net annual savings or increase in revenues of less than $100.

(f) The governor's office [commission] may also issue a certificate of appreciation to each employee who is granted a bonus under this chapter [subchapter].

(g) The governor's office shall divide any bonus for a suggestion submitted by more than one employee among the employees submitting the suggestion.

Sec. 2108.004 [2188.824]. EMPLOYEE ELIGIBILITY. Each state employee is eligible to participate in the incentive program except an employee:

(1) who has authority to implement the suggestion being made;

(2) who is on an unpaid leave of absence;

(3) whose job description includes responsibility for cost analysis, efficiency analysis, savings implementation, or other similar programs in the employee's agency;

(4) who is involved in or has access to agency research and development information used as the basis of the suggestion; or

(5) whose job description or routine job duties include developing the type of change in agency operations recommended by the suggestion.

Sec. 2108.005 [2188.825]. EMPLOYEE STATUS; FORMER EMPLOYEES. (a) An employee's eligibility under Section 2108.004 [2188.824] is determined on the employee's status when the agency coordinator receives the original employee suggestion.

(b) A former employee is eligible for an award if the employee's suggestion is implemented on or before the second anniversary of the date of final disposition of the suggestion. A bonus granted to an employee who dies before the bonus is received shall be paid to the employee's estate.
Sec. 2108.006 [2188.826]. ELIGIBLE SUGGESTION. (a) To be eligible for consideration under the incentive program an employee suggestion must:

(1) be given to the agency coordinator;
(2) be in writing and in the form the governor's office [commission] prescribes;
(3) be signed by the employee;
(4) propose a reasonable implementation method; and
(5) describe the type of cost savings or other benefit the employee foresees if the suggestion is adopted.

(b) An employee is not eligible to receive an award under this chapter [subchapter] for a suggestion that:

(1) does not describe a method to achieve the desired savings or benefit;
(2) proposes an idea under implementation or consideration on the date the suggestion is given to the agency;
(3) relates only to personnel matters or grievances, including employee classification or compensation;
(4) proposes a correction for a condition that resulted only because applicable established procedures were not properly followed; or
(5) proposes implementation of a policy or procedure that the employee's agency adopted before the employee made the suggestion to the agency.

Sec. 2108.007 [2188.827]. MULTIPLE AND JOINT SUGGESTIONS. (a) If two or more employees submit the same suggestion relating to the same agency, the first suggestion that the agency coordinator receives is eligible for consideration.

(b) If the same suggestion is received on the same day from two or more employees working at different locations, a bonus granted for the suggestion may be divided equally among the employees.

(c) Two or more employees may submit a joint suggestion. A bonus granted for the suggestion shall [may] be divided equally among the employees.

Sec. 2108.008 [2188.828]. AGENCY COORDINATOR. (a) Each state agency shall designate an agency coordinator.

(b) An agency coordinator shall:

(1) promote employee participation in the incentive program;
(2) obtain an impartial evaluation of each employee suggestion;
(3) promote the implementation of adopted suggestions by the agency;
(4) monitor the cost savings and other benefits that result from the implementation of an employee suggestion;
(5) file reports with the governor's office [commission] as required by [commission] rule of the governor's office; and
(6) arrange and conduct intraagency award ceremonies to recognize agency employees who are granted awards under this chapter [subchapter].
Sec. 2108.009 [2108.029]. ELIGIBILITY DETERMINATION BY AGENCY COORDINATOR. (a) An agency coordinator shall make the initial determination of the eligibility of an employee suggestion or of an agency employee who makes a suggestion.
(b) An employee who is aggrieved by an eligibility determination of an agency coordinator may request a redetermination.
(c) The governor's office [commission] shall adopt rules to govern the redetermination process. An agency coordinator shall give each employee who makes a suggestion a copy of the [commission] rules of the governor's office relating to redeterminations or reevaluations.

Sec. 2108.010 [2108.030]. PROCEDURE. (a) Not later than the 90th day after the date an agency coordinator receives an employee suggestion, the agency coordinator shall send the suggestion and the evaluation of the suggestion to the governor's office [commission] for further analysis and comment regarding implementation. If, after any necessary analysis, the governor's office [commission] determines that the suggestion has merit, the governor's office [commission] shall refer the suggestion to each appropriate state agency for proposed adoption and implementation.
(b) Not later than the 30th day after the date the governor's office [commission] makes a final determination on adoption or rejection of an employee suggestion, the governor's office [commission] shall notify in writing each employee who proposed the suggestion of the [commission's] determination of the governor's office.
(c) Final adoption of an employee suggestion is at the discretion of the chief administrative officers of each agency. An agency that implements a suggestion proposed under this chapter [subchapter] shall provide information the governor's office [commission] requests that is necessary to compute the amount of savings or other benefits derived from the suggestion.

Sec. 2108.011 [2108.031]. GOVERNOR'S OFFICE [COMMISSION] AS ARBITER; APPEAL. (a) The governor's office [commission] is the final arbiter of any dispute arising from the implementation of the incentive program or from eligibility determination.
(b) An employee may not appeal a [commission] decision of the governor's office to a court.

Sec. 2108.012 [2108.032]. REEVALUATION OF SUGGESTION. An employee whose suggestion has been rejected may request a reevaluation of the suggestion if the employee has reasonable grounds to believe that the importance of the suggestion has been overlooked or misinterpreted. The employee must make the request in writing not later than the 30th day after the date the employee receives notice of the rejection. The employee shall provide any additional information that the employee considers useful to the reevaluation.

Sec. 2108.013 [2108.033]. SUGGESTION ADOPTED BEFORE SUBMISSION TO AGENCY COORDINATOR. The governor's office [commission] may grant a bonus or issue a certificate of appreciation to
an employee who makes a suggestion that results in an agency's adopting
a policy or procedure before the suggestion is submitted to the agency
coordinator if the employee or agency demonstrates to the governor's office
[commission] that:

(1) the employee making the suggestion is eligible under this
chapter [subchapter];
(2) the suggestion is eligible under this chapter [subchapter];
(3) the employee proposed a reasonable method of implementation
and described the type of savings or benefit foreseen to the agency before
agency implementation; and
(4) the agency adopted the policy or procedure as a result of the
suggestion.

Sec. 2108.014 [2108.034]. SUGGESTION REQUIRING LEGISLATIVE
ACTION. The governor's office [commission] shall note a suggestion that
requires legislative action. If, as a direct result of an employee suggestion,
legislation is passed to implement the suggestion, the governor's office
[commission] shall consider the suggestion for an award. The employee's
agency coordinator shall notify the governor's office [commission] if
implementing legislation is passed.

Sec. 2108.015 [2108.035]. CONFIDENTIALITY. On request of an
employee who has made a suggestion under this chapter [subchapter], the
governor's office [commission] to the greatest extent possible shall
maintain the employee's confidentiality in the evaluation or award process.

Sec. 2108.016 [2108.036]. CLAIMS ASSIGNED TO STATE. By
submitting a suggestion under this chapter [subchapter], an employee
agrees with the state that a claim of the employee based on the suggestion,
including a patent, copyright, trademark, or other similar claim, is assigned
to the state.

Sec. 2108.017 [2108.037]. FUNDS TRANSFER. (a) The comptroller
shall transfer the amount certified by the governor's office [commission]
and the affected agency as the actual or projected savings or increased
revenues attributable to an implemented suggestion from a fund affected
by the savings or increased revenues.

(b) The comptroller shall transfer the amount certified under
Subsection (a) as follows:

(1) 50 [40] percent to the fund from which the original
appropriation to the affected fund was made;
(2) 40 percent to an appropriate fund from which the affected
agency may award merit pay increases to individuals in the agency; and
(3) 10 [20] percent to the special fund established for the
governor's office [commission] under Section 2108.018 [2108.038].

(c) If increased productivity attributable to an implemented suggestion
results in savings or increased revenues that can be computed as provided
by Section 2108.003(c) [2108.023(e)] but that will not permit the affected
agency to transfer or to have an unexpended balance of appropriated
money, the governor's office [commission] and the affected agency shall
certify the amount of actual or projected savings or increased revenues that
are attributable to the suggestion, and the comptroller shall transfer
20 percent of that amount from a fund affected by the savings or increased revenues to the special fund established under Section 2108.018 (2108.038).

Sec. 2108.018 (2108.038). SPECIAL FUND. (a) An amount transferred under Section 2108.017(b)(3) or (c) [2108.037(b)(3) or (c)] shall be deposited in the state treasury to the credit of a special fund. Money in the fund may be used by the governor's office [commission] for bonuses awarded under this chapter [subchapter and to administer the commission].

(b) The comptroller shall transfer any amount remaining in the special fund on the last day of a state fiscal biennium to the general revenue fund or other funds as appropriate.

Sec. 2108.019 (2108.039). CHANGE TO INCENTIVE PROGRAM. The state may change or terminate the incentive program at any time without prior notice.

SECTION 12.04. Subchapters A and C, Chapter 2108, Government Code, are repealed.

SECTION 12.05. (a) In addition to the substantive changes in law made by this article, this article conforms the Government Code to Section 1, Chapter 333, Acts of the 73rd Legislature, Regular Session, 1993.

(b) Section 1, Chapter 333, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

(c) To the extent of any conflict, this article prevails over an Act of the 74th Legislature, Regular Session, 1995, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12.06. All powers, duties, obligations, rights, property, funds, employees, and appropriations of the Texas Incentive and Productivity Commission are transferred to the governor's office. A rule, form, decision, or procedure of the Texas Incentive and Productivity Commission that relates to the state employee incentive program is continued in effect as a rule, form, decision, or procedure of the governor's office until superseded by appropriate action of the governor's office. A suggestion under the state employee incentive program that is before the Texas Incentive and Productivity Commission is transferred without change in status to the governor's office.

ARTICLE 13. ABOLITION OF TEXAS INNOVATION INFORMATION NETWORK SYSTEM

SECTION 13.01. The Texas Innovation Information Network System is abolished. The system may continue to exist after the effective date of this Act only for the purposes of dissolving and of disposing of any unencumbered assets in accordance with law.

SECTION 13.02. Subchapter D, Chapter 88, Education Code, is repealed.

ARTICLE 14. ABOLITION OF TEXAS ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SECTION 14.01. The Texas Advisory Commission on Intergovernmental Relations is abolished.
SECTION 14.02. Chapter 741, Government Code, is repealed.

ARTICLE 15. ABOLITION OF SELECT COMMITTEE ON RATE AND POLICY FORM REGULATION

SECTION 15.01. The select committee on rate and policy form regulation is abolished.

SECTION 15.02. Article 1.50, Insurance Code, is repealed.

ARTICLE 16. ABOLITION OF JOB TRAINING PARTNERSHIP ACT MONITORING COMMITTEE

SECTION 16.01. The job training partnership act monitoring committee is abolished.

SECTION 16.02. Section 301.027, Labor Code, is amended to read as follows:

Sec. 301.027. SUBMISSION OF AUDIT INFORMATION [TO COMMITTEE]. [(a) To obtain information necessary to monitor the progress of the implementation of this chapter, the committee is entitled to receive the results of audits that relate to state and local job training plans. The committee may prescribe the form in which the results are reported to the committee:

[(b) The state auditor shall submit to the committee the results of a financial audit, effectiveness audit, or compliance audit conducted under Section 321.013, Government Code, that relate to the operation of an employment, job training, or related program administered by a state agency:

[(c)]] The private industry council and appropriate chief elected official of each service delivery area shall submit to the state auditor, in the manner directed by the state auditor, the results of an audit conducted under audit procedures established under Section 301.052(b) that relates to the operation of the service delivery area's program of job training, employment, or related services. [The state auditor shall compile a summary of audit results from the information received from each service delivery area and shall submit the summary in writing to the committee.]

SECTION 16.03. Section 301.026, Labor Code, is repealed.

ARTICLE 17. ABOLITION OF UNIFORM JURY HANDBOOK LEGISLATIVE OVERSIGHT COMMITTEE

SECTION 17.01. The uniform jury handbook legislative oversight committee is abolished.

SECTION 17.02. Section 2(a), Chapter 833, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

ARTICLE 18. ABOLITION OF LEGISLATIVE CRIMINAL JUSTICE BOARD

SECTION 18.01. The Legislative Criminal Justice Board is abolished.

SECTION 18.02. Chapter 328, Government Code, is repealed.

ARTICLE 19. ABOLITION OF LEGISLATIVE HEALTH AND HUMAN SERVICES BOARD

SECTION 19.01. The Legislative Health and Human Services Board is abolished.

SECTION 19.02. Chapter 330, Government Code, is repealed.
ARTICLE 20. ABOLITION OF ADVISORY AND OVERSIGHT COMMITTEE ON MEDICAL AND HEALTH CARE PROFESSIONS MINORITY RECRUITMENT

SECTION 20.01. The advisory and oversight committee on medical and health care professions minority recruitment is abolished.

SECTION 20.02. Section 51.717, Education Code, is repealed.

ARTICLE 21. ABOLITION OF MULTISTATE TAX COMPACT ADVISORY COMMITTEE

SECTION 21.01. The Multistate Tax Compact Advisory Committee is abolished.

SECTION 21.02. Section 141.004, Tax Code, is repealed.

ARTICLE 22. ABOLITION OF TEXAS PARTNERSHIP AND SCHOLARSHIP PROGRAM ADVISORY COUNCIL

SECTION 22.01. The Texas partnership and scholarship program advisory council is abolished.

SECTION 22.02. Section 35.10, Education Code, is repealed.

ARTICLE 23. ABOLITION OF POSTADOPTION SERVICES ADVISORY COMMITTEE

SECTION 23.01. The Postadoption Services Advisory Committee is abolished.

SECTION 23.02. Section 47.032, Human Resources Code, is repealed.

ARTICLE 24. ABOLITION OF STATE PRESERVATION BOARD PERMANENT ADVISORY COMMITTEE

SECTION 24.01. The State Preservation Board permanent advisory committee is abolished.

SECTION 24.02. Section 443.008, Government Code, is amended to read as follows:

Sec. 443.008. ADVISORY COMMITTEES. (a) The board shall appoint a permanent advisory committee consisting of the executive director of the Texas Historical Commission, chairman of the Antiquities Committee, director of the Texas State Library and Archives Commission, director of the Texas Commission on the Arts, and three citizens, one each appointed by the governor, lieutenant governor, and speaker of the house of representatives. At its first meeting in each odd-numbered year, the board shall designate a chairman for the committee from among the committee's members. The person designated serves in that capacity until a successor is designated:

(b) An appointed member serves at the will of the authority who appointed the member. A citizen member is entitled to a per diem as set by the General Appropriations Act for each day that the person engages in committee business:

(c) The committee shall assist in the development of the annual budget and work-plan prepared by the executive director, the master-plan prepared by the architect of the Capitol, and the collection policy and furnishings plan prepared by the curator of the Capitol, and make recommendations concerning board approval of those documents:

(d) The board may appoint [other] advisory committees to aid it in carrying out its duties.
ARTICLE 25. ABOLITION OF PRODUCT DEVELOPMENT ADVISORY BOARD

SECTION 25.01. The Product Development Advisory Board is abolished.

SECTION 25.02. Section 481.225, Government Code, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or in part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter shall prevent or restrict the department [or the advisory board] from obtaining information relating to a product or process from an applicant or recipient of a loan under this subchapter. [The product development advisory board is not required to deliberate in an open meeting regarding matters made confidential under this section. Decisions or other actions as a result of the board’s deliberations are not confidential and shall be made in an open meeting.]

SECTION 25.03. Section 481.227, Government Code, is amended to read as follows:

Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan may be made under this subchapter only to finance a project approved by the [advisory board and the] department.

(b) In determining eligible projects, the [advisory board and the] department shall give special preference to projects that have the greatest likelihood of commercial success and have the greatest effect on job creation and retention in the state, specifically including but not limited to projects in the areas of biotechnology, biomedicine, energy, materials science, microelectronics, aerospace, marine science, aquaculture, telecommunications, manufacturing science, and other priority research areas as provided in Section 143.003, Education Code. The priority research area of agriculture will be funded according to the provisions of Subchapter D, Chapter 58, Agriculture Code. The [advisory board and the] department further shall give consideration to:

(1) grantees under the small business innovation research program established under 15 U.S.C. Section 638;

(2) Texas companies formed to commercialize research funded at least in part with state funds; and

(3) Texas companies receiving assistance from designated state small business development centers.

SECTION 25.04. Section 481.228, Government Code, is amended to read as follows:

Sec. 481.228. CONSIDERATION IN FINANCING. In determining whether to provide financing under this subchapter, the [advisory board and the] department shall give preference to applicants who are Texas residents doing business in the state and performing financed activities
predominantly in the state, and then to applicants who can demonstrate that the financed activities will take place predominantly in this state.

SECTION 25.05. Section 481.230, Government Code, is amended to read as follows:

Sec. 481.230. RULES: IMMUNITY FROM LIABILITY [ADVISORY BOARD]. (a) The [Product Development Advisory Board is composed of:

(1) one representative of the Texas Higher Education Coordinating Board selected by the Texas Higher Education Coordinating Board;

(2) two persons appointed by the governor;

(3) two persons appointed by the lieutenant governor, and

(4) two persons appointed by the speaker of the house of representatives;

(b) In appointing members of the advisory board, the governor, lieutenant governor, and speaker of the house shall appoint persons having significant business leadership experience with emerging technologies, particularly experience with the transfer of research results into commercial application.

(c) Members of the advisory board serve two-year staggered terms with the terms of four members expiring February 1 of each odd-numbered year and the terms of three members expiring February 1 of each even-numbered year.

(d) The governor shall appoint the advisory board's chairman from among its members.

(e) On recommendation of the advisory board, the department shall adopt rules establishing limits on the amount of each loan and otherwise governing the terms and conditions of the loans, specifically including requirements for appropriate security or collateral and the rights and remedies of the department in the event of a default on the loan. [Such rules shall include a requirement that borrowers shall report to the advisory board on the use of money distributed through this fund.]

(f) The executive director, a member of the policy board, advisory board, or other person acting on behalf of the department in executing a contract, commitment, or agreement under this subchapter is not personally liable on the contract, commitment, or agreement. The executive director, a member of the policy board, advisory board, or other person acting on behalf of the department is not personally liable for damage or injury resulting from the performance of duties under this subchapter.

SECTION 25.06. Section 481.221(1), Government Code, is repealed.

ARTICLE 26. ABOLITION OF ROLE OF THE FAMILY IN REDUCING RECIDIVISM ADVISORY COMMITTEE

SECTION 26.01. The Role of the Family in Reducing Recidivism Advisory Committee is abolished.

SECTION 26.02. Section 501.011, Government Code, is repealed.

SECTION 26.03. Section 61.036(c), Human Resources Code, is repealed.

ARTICLE 27. ABOLITION OF SMART JOBS FUND PROGRAM LEGISLATIVE REVIEW COMMITTEE

SECTION 27.01. The smart jobs fund program legislative review committee is abolished.
SECTION 27.02. Section 481.1601, Government Code, is repealed.

ARTICLE 28. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 28.01. If an entity that is abolished by this Act has property, records, or other assets and the article of this Act that abolishes the entity does not provide for their disposition, the General Services Commission shall take custody of the property, records, or other assets of the entity unless the governor designates another appropriate state agency to take custody of the entity's property, records, or other assets.

SECTION 28.02. This Act takes effect September 1, 1995.

SECTION 28.03. 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.

Floor Amendment No. 1

Amend C.S.S.B. 1428 as follows:

(1) On page 8, beginning on line 13, delete Article 12 of the bill and renumber subsequent Articles accordingly.

Floor Amendment No. 2

Amend C.S.S.B. 1428 immediately after ARTICLE 27 of the bill (House committee report, page 28, between lines 1 and 2) by inserting the following article of the bill and renumbering subsequent articles and sections of the bill accordingly:

ARTICLE 28. ABOLITION OF TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE

SECTION 28.01. The Texas Commission on Alcohol and Drug Abuse as it exists on the effective date of this Act is abolished. The terms of office of the members of the commission serving on that date expire on the date of the first meeting of the commission created by this article.

SECTION 28.02. (a) The Texas Commission on Alcohol and Drug Abuse, composed as provided by Section 461.003, Health and Safety Code, as amended by this article, is created.

(b) As soon as possible after the effective date of this Act, the governor shall appoint six members to the commission. Members appointed to the commission under this section serve for terms expiring February 1, 1997.

SECTION 28.03. (a) The Texas Commission on Alcohol and Drug Abuse created by this article has all the powers and duties provided by law and all the property, employees, unspent appropriations, documents, rights, and obligations of the abolished commission.

(b) The validity of an action taken by the commission before it is abolished under this article is not affected by the abolishment.

SECTION 28.04. The change in law made by this article does not affect the powers and duties of the State Conservatorship Board under Chapter 2104, Government Code, relating to the operation of the Texas Commission on Alcohol and Drug Abuse, and the actions of the legislative
audit committee and of the governor under Chapter 2104, Government Code, relating to placing the abolished agency under the conservatorship of the State Conservatorship Board are considered to be actions placing the commission created by this article under the conservatorship of the State Conservatorship Board.

SECTION 28.05. It is the intent of the legislature that the governing structure of the Texas Commission on Alcohol and Drug Abuse created by this article be a transitional governing structure. Not later than November 1, 1996, the members of the Texas Commission on Alcohol and Drug Abuse appointed under this article and the State Conservatorship Board shall file joint recommendations with the presiding officer of each house of the legislature for consideration by the 75th Legislature relating to governance of the commission.

SECTION 28.06. Section 461.003, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The commission is composed of six members appointed by the governor with the advice and consent of the senate.

(d) In appointing members to the commission under this section, the governor shall appoint not fewer than three members with experience in business management, financial management, auditing, contract management, or similar activities that are relevant to the commission's duties.

SECTION 28.07. Section 461.006, Health and Safety Code, is amended to read as follows:

Sec. 461.006. TERMS. Commission members serve for two-year staggered six-year] terms[, with the terms of three members expiring every other year].

Floor Amendment No. 3

Amend C.S.S.B. 1428 as follows:

(1) In ARTICLE 10 of the bill, strike SECTIONS 10.02-10.04 of the bill (House committee report, page 7, line 11, through page 8, line 8) and substitute the following:

SECTION 10.02. Subchapter R, Chapter 22, Parks and Wildlife Code, is repealed.

Floor Amendment No. 1 on Third Reading

Amend C.S.S.B. 1428 on third reading by striking ARTICLE 7 of the bill (relating to the Edwards Aquifer Legislative Oversight Committee) and renumbering subsequent ARTICLES and SECTIONS of the bill appropriately.

The amendments were read.

On motion of Senator Cain and by unanimous consent, the Senate concurred in the House amendments to S.B. 1428 by a viva voce vote.
SENATE BILL 1375 WITH HOUSE AMENDMENT

Senator Wentworth called S.B. 1375 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.

Floor Amendment No. 1

Amend S.B. 1375, in SECTION 1, in proposed Section 54.0162, Water Code, as follows:

(1) Add the following subsections:

(e) The provisions of this section also apply to a municipal utility district that:

(1) was created before 1980;
(2) has an area of 700 acres or less; and
(3) is located, in part, within the extraterritorial jurisdiction of two or more municipalities and, in part, outside municipal extraterritorial jurisdiction in the unincorporated area of a county.

(f) A municipal utility district acting under Subsection (e) shall comply with the notification and selection requirements of this section. A municipality affected by the decision of a municipal utility district acting under Subsection (e) shall comply with the requirements of Subsections (b) and (c).

(g) A municipal utility district described by Subsection (e) shall notify the affected municipality within 30 calendar days of notice of intent to annex by that municipality.

(2) On page 1, line 10, after "that", insert "on January 1, 1995."

The amendment was read.

Senator Wentworth moved to concur in the House amendment to S.B. 1375.

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

SENATE BILL 1349 WITH HOUSE AMENDMENT

Senator Montford called S.B. 1349 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

Amend S.B. 1349 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT
relating to subsequent evidentiary search warrants.

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

SECTION 1. Article 18.01, Code of Criminal Procedure, is amended by amending Subsections (c), (d), and (i) to read as follows:
(c) A search warrant may not be issued pursuant to Subdivision (10) of Article 18.02 of this code unless the sworn affidavit required by Subsection (b) of this article sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections [Subsection] (d) and (i) of this article, only a judge of a municipal court of record who is an attorney licensed by the State of Texas, statutory county court, district court, the Court of Criminal Appeals, or the Supreme Court may issue warrants pursuant to Subdivision (10), Article 18.02 of this code.

(d) Only the specifically described property or items set forth in a search warrant issued under Subdivision (10) of Article 18.02 of this code or property or items enumerated in Subdivisions (1) through (9) of Article 18.02 of this code may be seized. A subsequent [Subsequent] search warrant [warrants] may [not] be issued pursuant to Subdivision (10) of Article 18.02 of this code to search the same person, place, or thing subjected to a prior search under Subdivision (10) of Article 18.02 of this code only if the subsequent search warrant is issued by a judge of a district court, a court of appeals, the court of criminal appeals, or the supreme court.

(i) In a county in which the only judge serving the county who is a licensed attorney is a district judge whose district includes more than one county, any magistrate may issue a search warrant under Subdivision (10) or Subdivision (12) of Article 18.02 of this code. This section is not applicable to a subsequent search warrant under Subdivision (10) of Article 18.02 of this Code.

SECTION 2. The change in law made by this Act applies regardless of whether a search warrant under Subdivision (10), Article 18.02, Code of Criminal Procedure, was issued before, on, or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 1995.

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.

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to S.B. 1349 by a viva voce vote.

SENIATE BILL 1334 WITH HOUSE AMENDMENTS

Senator Barrientos called S.B. 1334 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

Amend S.B. 1334 as follows: by adding a new SECTION 2 on page 7, line 11, to read as follows and renumbering subsequent sections appropriately:

SECTION 2. Section 92.152, Property Code is amended to read as follows:

(a) This subchapter does not apply to:
   (1) a room in a hotel, motel, or inn or to similar transient housing;
   [or]
   (2) residential housing owned or operated by a public or private college or university accredited under Section 61.003, Education Code;
   [or]
   (3) residential housing operated by preparatory schools accredited by the Texas Education Agency, a regional accrediting agency, or any accrediting agency recognized by the commission of education; or
   (4) to a temporary residential tenancy created by a contract for the sale of real estate in which the buyer occupies the property prior to closing or the seller occupies the property after closing for a contemplated term not to exceed 90 days.

(b) Except as provided by Subsection (a) of this section, a dwelling to which this subchapter applies includes:
   (1) a room in a dormitory or rooming house [not excluded by Subsection (a) of this section];
   (2) a mobile home;
   (3) a single family house, duplex, or triplex; and
   (4) a living unit in an apartment, condominium, cooperative, or townhome project.

Committee Amendment No. 2

Amend S.B. 1334 as follows:

In SECTION 4 of the bill, on page 17, line 12, strike Subsection 24(a) and substitute the following:

(a) In this section, "residential rental locator" means a person, other than the owner of the property or a person exempted by Section 3 of this Act, who offers, for consideration, to locate a unit in an apartment complex for lease to a prospective tenant.

Committee Amendment No. 3

Amend S.B. 1334 by striking SECTIONS 7 and 8 and adding the following new SECTIONS, to read as follows:

SECTION 7. Section 92.258, Property Code, is amended by amending Subsections (b) and (e) and adding Subsection (g) to read as follows:

(b) The landlord shall determine that the smoke detector is in good working order at the beginning of the tenant's possession by testing the smoke detector with smoke, by operating the testing button on the smoke
detector, or by following other [the] recommended test procedures of the manufacturer for the particular model: 

(a) at the beginning of a tenant's possession if the dwelling unit contains a smoke detector; or 

(b) at the time of installation if the landlord installs the smoke detector in the dwelling unit after the tenant has taken possession.

(c) The landlord has met the duty to inspect and repair if the smoke detector is in good working order after the landlord tests the smoke detector with smoke, operates the testing button on the smoke detector, or follows other [the] recommended test procedures of the manufacturer for the particular model.

(g) A smoke detector that is in good working order at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests repair of the smoke detector as provided by this subchapter.

SECTION 8. Section 92.259, Property Code, is amended to read as follows:

Sec. 92.259. LANDLORD'S FAILURE TO INSTALL, INSPECT, OR REPAIR. (a) A landlord is liable according to this subchapter if:

(1) the landlord did not install a smoke detector at the time of initial occupancy by the tenant as required by this subchapter or a municipal ordinance permitted by this subchapter; or [after the tenant requested the landlord to install, inspect, or repair a smoke detector in the tenant's dwelling unit as required by this subchapter, the landlord did not install the smoke detector or inspect or repair the smoke detector within a reasonable time after the tenant's notice of malfunction or request for repair, considering the availability of materials, labor, and utilities, and]

(2) the landlord does not install, inspect, or repair the smoke detector on or before the seventh day after the date the tenant gives the landlord written notice that the tenant may exercise his remedies under this subchapter if the landlord does not comply with the request within seven days.

(b) If the tenant gives notice under Subsection (a)(2) and the tenant's lease is in writing, the lease may require the tenant to make the initial request for installation, inspection, or repair in writing.

SECTION 9. Section 92.260, Property Code, is amended to read as follows:

Sec. 92.260. TENANT REMEDIES. A tenant of a landlord who is liable under Section 92.259 may obtain or exercise one or more of the following remedies:

(1) a court order directing the landlord to comply with the tenant's request if the tenant is in possession of the dwelling unit;

(2) a judgment against the landlord for damages suffered by the tenant because of the landlord's violation;

(3) a judgment against the landlord for a civil penalty of one month's rent plus $100 if the landlord violates Section 92.259(a)(2); 

(4) a judgment against the landlord for court costs [and attorney's fees]; and
(5) a judgment against the landlord for attorney's fees in an action under Subdivision (1) or (3); and
(6) unilateral termination of the lease without a court proceeding if the landlord violates Section 92.259(a)(2).

SECTION 10. Subchapter F, Chapter 92, Property Code, is amended by adding Section 92.2611 to read as follows:

Sec. 92.2611. TENANT'S DISABLING OF A SMOKE DETECTOR.
(a) A tenant is liable according to this subchapter if the tenant removes a battery from a smoke detector without immediately replacing it with a working battery or knowingly disconnects or intentionally damages a smoke detector, causing it to malfunction.

(b) Except as provided in Subsection (c), a landlord of a tenant who is liable under Subsection (a) may obtain a judgment against the tenant for damages suffered by the landlord because the tenant removed a battery from a smoke detector without immediately replacing it with a working battery or knowingly disconnected or intentionally damaged the smoke detector, causing it to malfunction.

(c) A tenant is not liable for damages suffered by the landlord if the damage is caused by the landlord's failure to repair the smoke detector within a reasonable time after the tenant requests it to be repaired, considering the availability of material, labor, and utilities.

(d) A landlord of a tenant who is liable under Subsection (a) may obtain or exercise one or more of the remedies in Subsection (e) if:
(1) a lease between the landlord and tenant contains a notice in underlined or boldfaced print which states in substance that the tenant must not disconnect or intentionally damage a smoke detector or remove the battery without immediately replacing it with a working battery and that the tenant may be subject to damages, civil penalties and attorney's fees under Section 92.2611 of the Property Code for not complying with the notice; and
(2) the landlord has given notice to the tenant that the landlord intends to exercise the landlord's remedies under this subchapter if the tenant does not reconnect, repair, or replace the smoke detector or replace the removed battery within seven days after being notified by the landlord to do so.

The notice in Subdivision (2) must be in a separate document furnished to the tenant after the landlord has discovered that the tenant has disconnected or damaged the smoke detector, or removed a battery from it.

(e) If a tenant is liable under Subsection (a) and the tenant does not comply with the landlord's notice under Subsection (d), the landlord shall have the following remedies against the tenant:
(1) a court order directing the tenant to comply with the landlord's notice;
(2) a judgment against the tenant for a civil penalty of one month’s rent plus $100;
(3) a judgment against the tenant for court costs; and
(4) a judgment against the tenant for reasonable attorney's fees.
(f) A tenant's guest or invitee who suffers damage because of a landlord's failure to install, inspect, or repair a smoke detector as required by this subchapter, may recover a judgment against the landlord for the damage. A tenant's guest or invitee who suffers damage because the tenant removed a battery without immediately replacing it with a working battery or because the tenant knowingly disconnected or intentionally damaged the smoke detector, causing it to malfunction, may recover a judgment against the tenant for the damage.

SECTION 11. SECTIONS 7 through 10 of this Act relating to smoke detectors take effect September 1, 1995, and apply only to a cause of action that accrues on or after that date. All other SECTIONS take effect January 1, 1996. A cause of action that accrued before the effective date of a SECTION of this Act is governed by the law as it existed at the time the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 12. 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.

Floor Amendment No. 4

Amend S.B. 1334 by adding the appropriately numbered two new SECTIONS, to read as follows, and renumbering the subsequent SECTIONS appropriately:

SECTION ___. Section 92.152, Property Code, is amended to read as follows:

Sec. 92.152. Application of Subchapter. (a) This subchapter does not apply to:

(1) a room in a hotel, motel, or inn or to similar transient housing;
(2) [or-to] residential housing owned or operated by a public or private college or university accredited by a recognized accrediting agency as defined under Section 61.003, Education Code;
(3) [or-to] residential housing operated by preparatory schools accredited by the Texas Education Agency, a regional accrediting agency, or any accrediting agency recognizing by the commissioner of education;

or

(4) a temporary residential tenancy created by a contract for sale in which the buyer occupies the property before closing or the seller occupies the property after closing for a specific term not to exceed 90 days.

(b) Except as provided by Subsection (a), a [A] dwelling to which this subchapter applies includes:

(1) a room in a dormitory or boarding house [not-excluded-by Subsection (a) of this section];
(2) a mobile home;
(3) a single family house, duplex, or triplex; and
(4) a living unit in an apartment, condominium, cooperative, or townhome project.
SECTION ___. Section 92.153, Property Code, is amended to read as follows:

Sec. 92.153. Security Devices Required Without Necessity of Tenant Request. (a) Except as provided by Subsections (b), (e), (f), [and] (g), and (h) and without necessity of request by the tenant, a dwelling must be equipped with:

1. a window latch on each exterior window of the dwelling;
2. a doorknob lock or keyed dead bolt on each exterior door;
3. a sliding door pin lock[,] a sliding door handle latch, or a sliding door security bar on each exterior sliding glass door of the dwelling[,] if construction of the dwelling was completed before September 1, 1993, and the calendar date is before January 1, 1995;
4. [a sliding door pin lock and] a sliding door handle latch or a sliding door security bar on each exterior sliding glass door of the dwelling[,] if construction of the dwelling was completed on or after September 1, 1993, or the calendar date is January 1, 1995, or later; and
5. a keyless bolting device and a door viewer on each exterior door of the dwelling[,] if initial construction of the dwelling was completed on or after September 1, 1993, and]
6. [a keyless bolting device and a door viewer on each exterior door of the dwelling, if the calendar date is January 1, 1995, or later].

(b) If the dwelling has French doors, one door of each pair of French doors must meet the requirements of Subsection (a) and the other door must have:

1. a keyed dead bolt or keyless bolting device capable of insertion into the doorjamb above the door and a keyless bolting device capable of insertion into the floor or threshold, each with a bolt having a throw of one inch or more; or
2. a bolt installed inside the door and operated from the edge of the door, capable of insertion into the doorjamb above the door, and another bolt installed inside the door and operated from the edge of the door capable of insertion into the floor or threshold, each bolt having a throw of three-fourths inch or more.

(c) A security device required by Subsection (a) or (b) must be installed at the landlord's expense.

(d) Subsections (a) and (b) apply only when a tenant is in possession of a dwelling.

(e) A keyless bolting device is not required to be installed at the landlord's expense on an exterior door if:

1. the dwelling is part of a multiunit complex in which the majority of dwelling units are leased to tenants who are over 55 years of age or who have a physical or mental disability;
2. a [the] tenant or occupant in the dwelling is over 55 years of age or has a physical or mental disability; and
3. the landlord is expressly required or permitted to periodically check on the well-being or health of the tenant as a part of a written lease or other written agreement.
A keyless bolting device is not required to be installed at the landlord's expense if a tenant or occupant in the dwelling is over 55 years of age or has a physical or mental disability, the tenant requests, in writing, that the landlord deactivate or not install the keyless bolting device, and the tenant certifies in the request that the tenant or occupant is over 55 years of age or has a physical or mental disability. The request must be a separate document and may not be included as part of a lease agreement. A landlord is not exempt as provided by this subsection of the landlord knows or has reason to know that the requirements of this subsection are not fulfilled.

A landlord is not exempt as provided by this subsection of unless:

1. At least one exterior door usable for normal entry into the dwelling has both a keyed dead bolt and a keyless bolting device installed in accordance with the height, strike plate, and throw requirements of Section 92.154; and
2. All other exterior doors have a keyless bolting device installed in accordance with the height, strike plate, and throw requirements of Section 92.154.

A security device required by this section must be operable throughout the time a tenant is in possession of a dwelling. However, a landlord may deactivate or remove the locking mechanism of a doorknob lock or remove any device not qualifying as a keyless bolting device if a keyed dead bolt has been installed on the same door.

A landlord is subject to the tenant remedies provided by Section 92.164(a)(4) if the landlord:

1. Deactivates or does not install a keyless bolting device, claiming an exemption under Subsection (e), (f), or (g); and
2. Knows or has reason to know that the requirements of the subsection granting the exemption are not fulfilled.

Amendment No. 1 on Third Reading

Amend S.B. 1334 on third reading by adding a new SECTION at the end of the bill to read as follows:

SECTION ___. Amend Chapter 92, Property Code, by adding a new Section 92.1031, to read as follows:

Sec. 92.1031. (a) Except as provided in Subsection (b), a landlord who receives a security deposit or rent prepayment for a dwelling from a tenant who fails to occupy the dwelling according to a lease between the landlord and the tenant, may not retain the security deposit or rent prepayment if:

1. The tenant secures a replacement tenant satisfactory to the landlord and the replacement tenant occupies the dwelling on or before the commencement date of the lease, or
2. The landlord secures a replacement tenant satisfactory to the landlord and the replacement tenant occupies the dwelling on or before the commencement date of the lease.
(b) If the landlord secures the replacement tenant, the landlord may retain and deduct from the security deposit or rent prepayment either:
   (1) a sum agreed to in the lease as a lease cancellation fee, or
   (2) actual expenses incurred by the landlord in securing the replacement, including a reasonable amount for the time of the landlord in securing the replacement tenant.

SECTION ___. The foregoing SECTION shall only apply to leases entered into after the effective date of this Act.

Floor Amendment No. 2 on Third Reading

Amend S.B. 1334 on third reading as follows:

(1) in SECTION 4 by striking Subsection (b) of Sec. 24 of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) in its entirety and substituting the following to read:

   "(b) A person may not engage in business as a residential rental locator in this state unless the person holds a license issued under this Act to operate as a real estate broker or real estate salesman and complies with the continuing education requirements under section 7A of this Act;

(2) in SECTION 4 by adding Subsection (a) of Section 7A of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to be amended by SECTION 4 as follows:

   "(a) To renew an active real estate broker license or an active real estate salesman license that is not subject to the annual education requirements of this Act, the licensee must provide the commission proof of attendance at at least 15 classroom hours of continuing education courses approved by the commission during the term of the current license. The commission by rule may provide for the substitution of relevant education experience or correspondence courses approved by the commission instead of classroom attendance. In addition, supervised video instruction may be approved by the commission as a course counting as classroom hours of mandatory continuing education. At least six hours of instruction must be devoted to the rules of the commission, fair housing laws, landlord-tenant law and other Property Code issues, agency laws, antitrust laws, the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business and Commerce Code), disclosure to buyer, landlords, tenants, and sellers, current contract and addendum forms, the unauthorized practice of law, case studies involving violations of laws and regulations, current Federal Housing Administration and Department of Veteran Affairs [Veterans Administration] regulations, tax laws, property tax consulting laws and legal issues, or [and] other legal topics approved by the commission. The remaining hours may be devoted to other real estate-related topics approved by the commission. The commission may consider equivalent courses for continuing education credit. property tax consulting laws and legal issues include but are not limited to the tax code, preparation of property tax reports, the unauthorized practice of law, agency laws, tax laws, laws concerning property taxes or assessments, deceptive trade practices, contract forms and addendum, and other legal
topics approved by the commission [The commission, on the request of a provider of education, shall review a core real estate course authorized under Section 7 of this Act and may approve it as a mandatory continuing education course]. Real Estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit and core real estate courses under Section 7(a) of this Act shall automatically be approved a mandatory continuing education courses under this Act. The commission may not require examinations except for correspondence courses or courses offered by alternative delivery systems such as computers. Daily classroom course segments must be at least three hours long but not more than 10 hours long. [If the license being renewed under this section was issued for less than two years, the licensee must provide the commission proof of attendance at least eight classroom hours of continuing education within the term of the current license, three classroom hours of which must have been devoted to the legal topics specified in this section.]

(3) in SECTION 4, by adding Subdivisions (G) and (N) of Subsection 15(a)(6) of the Real estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to be amended in SECTION 4 as follows:

"(G) failing to specify in a listing or in another contract in which the licensee agrees to perform services for which a license is required under this Act a definite termination date which is not subject to prior notice;"

"(N) negotiating or attempting to negotiate the sale, exchange, lease or rental of real property with an owner, [or] lessor, buyer, or tenant, knowing the owner [or] lessor, buyer, or tenant had a written outstanding contract, granting exclusive agency in connection with the transaction [property] to another real estate broker;" and

(4) in SECTION 4, by adding a new Subsection (g) to Sec. 24 of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to read as follows:

"(g) The commission, by rule, may provide for a waiver of some or all of the requirements for a license under this Act, notwithstanding any other provision of this Act, if the applicant was previously licensed in this state within the five year period prior to the filing of the application."

The amendments were read.

On motion of Senator Barrientos and by unanimous consent, the Senate concurred in the House amendments to S.B. 1334 by a viva voce vote.

SENATE BILL 1619 WITH HOUSE AMENDMENT

Senator Brown called S.B. 1619 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

Amend S.B. 1619 (Senate engrossment) as follows:

(1) In SECTION 1 of the bill, Section 26.014, Water Code (effective
until delegation of NPDES permit authority) (page 1, lines 13, 17, and 22-23), strike "or cross".

(2) In SECTION 1 of the bill, Section 26.014, Water Code (effective until delegation of NPDES permit authority) (page 2, line 6), strike "or to cross".

(3) In SECTION 2 of the bill, Section 26.014, Water Code (effective on delegation of NPDES permit authority) (page 2, lines 14, 19, and 25), strike "or cross".

(4) In SECTION 2 of the bill, Section 26.014, Water Code (effective on delegation of NPDES permit authority) (page 3, line 6), strike "or to cross".

(5) In SECTION 3 of the bill, Section 361.032, Health and Safety Code (page 3, lines 17 and 23), strike "or cross".

(6) In SECTION 3 of the bill, Section 361.032, Health and Safety Code (page 4, line 2), strike "or cross".

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 1619 by a viva voce vote.

RECORD OF VOTE

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1190 ADOPTED

Senator Ellis called from the President's table the Conference Committee Report on S.B. 1190. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

On motion of Senator Ellis, the Conference Committee Report was adopted by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 68 ADOPTED

Senator West called from the President's table the Conference Committee Report on S.B. 68. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.

On motion of Senator West, the Conference Committee Report was adopted by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1204 ADOPTED

Senator Wentworth called from the President's table the Conference Committee Report on H.B. 1204. The Conference Committee Report was filed with the Senate on Thursday, May 25, 1995.
On motion of Senator Wentworth, the Conference Committee Report was adopted by a viva voce vote.

SENATE RESOLUTION 1300

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 74th Legislature, Regular Session, 1995, That Senate Rule 12.03(4) be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on H.B. 982 to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or the senate version of the bill. The added text reads as follows:

SECTION 6. If H.B. 3050 is enacted by the 74th Legislature at its regular session and becomes law, in addition to other amounts appropriated for the fiscal biennium ending August 31, 1997, receipts deposited in the Children's Trust Fund of Texas Council Operating Fund No. 541 in the biennium ending August 31, 1997, in an amount not to exceed $750,000 in the fiscal year ending August 31, 1996, and $750,000 in the fiscal year ending August 31, 1997, are appropriated to the Children's Trust Fund of Texas Council for the purpose of implementing this Act. The council is limited to a total number of full-time-equivalent positions not to exceed seven in the fiscal year ending August 31, 1996, and seven in the fiscal year ending August 31, 1997.

Explanation: This change is necessary to provide a specific appropriation for implementation of H.B. 982.

The resolution was read and was adopted by the following vote:

Yeas 31, Nays 0.

SENATE RESOLUTION 1243 REREFERRED

On motion of Senator West and by unanimous consent, S.R. 1243 was withdrawn from the Committee on Health and Human Services and was rereferred to the Committee on Administration.

SENATE RULE 11.19 SUSPENDED

(Posting Rule)

On motion of Senator Moncrief and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might meet and consider the following resolutions upon adjournment today:

S.R. 1243
H.C.R. 139
S.C.R. 174
CONFERENCE COMMITTEE REPORT ON 
HOUSE BILL 418

Senator Harris submitted the following Conference Committee Report:

Honorable Bob Bullock
President of the Senate

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

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 418 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS     GOODMAN
MADLA      VAN DE PUTTE
NIXON      BRADY
BROWN      H. CUELLAR
SIBLEY

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate on Friday, May 26, 1995.

CONFERENCE COMMITTEE REPORT ON 
HOUSE BILL 3235

Senator Turner submitted the following Conference Committee Report:

Honorable Bob Bullock
President of the Senate

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

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 3235 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

TURNER     HIGHTOWER
HENDERSON  PITTS
MONTFORD   ALEXANDER
LUNA       THOMPSON

On the part of the Senate

On the part of the House
The Conference Committee Report was filed with the Secretary of the Senate on Friday, May 26, 1995.

MEMORIAL RESOLUTIONS

S.R. 1272 - By Armbrister: In memory of Dennis Williams of Victoria.

S.R. 1279 - By Haywood: In memory of James E. Prothro of Wichita Falls.

CONGRATULATORY RESOLUTIONS


S.R. 1278 - By Haywood: Recognizing team members from J. Earl Selz High School in the Pilot Point Independent School District for winning the Texas Small Schools Academic Contest.

S.R. 1280 - By Haywood: Recognizing Norma Hill on the occasion of her retirement from the Wichita Falls Independent School District.

S.R. 1281 - By Haywood: Congratulating the members of the Memphis High School golf team on winning the state championship title.

S.R. 1282 - By Ellis: Commending Hakeem Olajuwon of Houston on his nomination for the National Basketball Association's Most Valuable Player award.

S.R. 1283 - By Ellis: Commending Jerry Cha Chan for his work as an intern in the office of Senator Rodney Ellis.

S.R. 1284 - By Ellis: Congratulating Olga Anaya and Joseph Wilson of Houston on the occasion of their marriage.

S.R. 1285 - By Lucio: Congratulating Tomasa Ramirez Chavez of Brownsville on becoming a United States citizen.


S.R. 1287 - By Sibley: Congratulating Bridgeport High School on being the First Place Team in the 3A Conference at the University Interscholastic League Academic and One-Act Play State Meet.

S.R. 1293 - By Leedom: Proclaiming June 8, 1995, as Girl Scout Gold Award Day in Dallas.


ADJOURNMENT

On motion of Senator Truan, the Senate at 6:06 p.m. adjourned until 12:15 p.m. tomorrow.
The Senate met at 12:15 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Zaffirini.

Absent-excused: Gallegos, Whitmire.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Our Lord and our maker, we assemble this afternoon with a prayer of gratitude for these women and men who are making a difference in the quality of life in Texas. By their action and determination, government is now open to the disadvantaged and is more supportive of the governed. Because of their concern,